

**000337** DOCKET SUPPORTING INFORMATION  
CITY OF SAN DIEGO  
**EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION**

DATE: December 16, 2008

SUBJECT: Ruffin Road Storm Drain Emergency Repair (SOLE SOURCE)

**GENERAL CONTRACT INFORMATION**

Recommended Contractor (s): Cass Construction, Incorporated (and)  
Harris & Associates (2<sup>nd</sup> Amendment to Consultant Agreement)

Amount of this Action: \$ 2,610,131.35

Funding Source: City of San Diego

Goals: 15% Voluntary

<b><u>SUBCONSULTANT PARTICIPATION</u></b>	<b><u>This Action</u></b>	
Atlas Fence (Other)	\$18,333.00	0.007%
Minshew Brothers Steel (Other)	\$16,576.69	0.006%
<b>Total Certified Subconsultant Participation</b>	<b>\$ 0.00</b>	<b>0.000%</b>
<b>Total Other Participation</b>	<b>\$34,909.69</b>	<b>0.013%</b>
<b>Total Subconsultant Participation</b>	<b>\$34,909.69</b>	<b>0.013%</b>

**EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

Equal Opportunity: Required

Cass Construction, Inc. submitted a Work Force Report dated October 3, 2008. The Administrative Work Force Report reflects 48 employees and the Trades Work Force Report reflects 73 employees. The Administrative workforce reflects under representations in the following:

Hispanics in Administrative Support  
Asians in Management & Financial, and Technical  
Filipinos in Management & Financial, Technical, Administrative Support  
Females in Management & Financial, Technical

The Trade workforce reflects under representations in the following:

Female in Construction Laborers

Staff has on file a "Letter of Commitment" which describes equal employment policies and practices including reasonable goals and timetables that are expected to remedy the identified under representations. Staff will regularly and aggressively monitor Cass Construction, Inc., and their adherence to these stated goals.

Harris and Associates submitted a Work Force Report for their San Diego County employees dated April 22, 2008, with a total of 27 employees. The firm's Work Force Analysis reflects under representations in the following categories:

000338

Asians in A&E, Science, Computer  
Females in A&E, Science, Computer; and Technical

A comparison to the Work Force Report Analysis from the previous year indicates improvements with the corrections to the under representations of Hispanics in Technical, and Females in Mgmt & Financial and Professional. Harris and Associates has an approved Equal Opportunity Plan on file which details strategies to remedy deficiencies in their workforce. Staff will continue to monitor their efforts.

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517)

#### ADDITIONAL COMMENTS

This action is to request authorization to increase the Fiscal Year 2009 Capital Improvements Program budget by an amount not to exceed \$2,610,131.35, ratify "Sole Source" Agreement Amendments #1, and #2 with Harris & Associates and ratify "Sole Source" Agreement with Cass Construction, Incorporated.

  
RLL

File, Admin WOFO 2000

Date WOFO Submitted: 10/3/2008

Input by: Lad

Goals reflect statistical labor force

Availability for the following: 2000 CLFA

San Diego, CA

City of San Diego/Equal Opportunity Contracting  
**WORK FORCE ANALYSIS REPORT**

FOR

Company: Cass Construction, Inc

## I. TOTAL WORK FORCE:

	Black			Hispanic			Asian			American Indian			Filipino			White			Other		
	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F
Mgmt & Financial	3.3%	0	0	11.9%	2	0	8.2%	0	0	0.4%	0	0	6.2%	0	0	12	3		0	0	
Professional	4.0%	0	0	12.6%	0	0	6.5%	0	0	0.5%	0	0	6.5%	0	0	1	0		0	0	
A&E, Science, Computer	2.8%	0	0	7.3%	0	0	16.2%	0	0	0.3%	0	0	16.2%	0	0	1	0		0	0	
Technical	6.6%	0	0	14.8%	0	0	17.2%	0	0	0.4%	0	0	17.2%	0	0	6	0		0	0	
Sales	3.9%	0	0	19.5%	0	0	6.8%	0	0	0.6%	0	0	6.8%	0	0	0	0		0	0	
Administrative Support	7.0%	0	0	20.8%	0	1	8.8%	1	0	0.6%	0	0	8.8%	0	0	3	9		0	0	
Services	5.5%	0	0	36.9%	0	0	9.7%	0	0	0.6%	0	0	9.7%	0	0	0	0		0	0	
Crafts	4.5%	0	0	25.8%	2	0	9.1%	0	0	0.7%	0	0	9.1%	0	0	4	0		0	0	
Operative Workers	4.3%	0	0	38.8%	0	0	20.8%	0	0	0.3%	0	0	20.8%	0	0	0	0		0	0	
Transportation	8.1%	0	0	32.1%	1	0	4.5%	0	0	0.5%	0	0	4.5%	0	0	2	0		0	0	
Laborers	4.4%	0	0	54.0%	0	0	4.1%	0	0	0.5%	0	0	4.1%	0	0	0	0		0	0	
<b>TOTAL</b>		<b>0</b>	<b>0</b>		<b>5</b>	<b>1</b>		<b>1</b>	<b>0</b>		<b>0</b>	<b>0</b>		<b>0</b>	<b>0</b>		<b>29</b>	<b>12</b>		<b>0</b>	<b>0</b>

## HOW TO READ TOTAL WORK FORCE SECTION:

The information blocks in Section 1 (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading of "CLFA Goals" are the County Labor Force Availability goals for each employment and ethnic/gender category.

Mgmt & Financial  
Professional  
A&E, Science, Computer  
Technical  
Sales  
Administrative Support  
Services  
Crafts  
Operative Workers  
Transportation  
Laborers

TOTAL EMPLOYEES		
ALL	M	F
17	14	3
1	1	0
1	1	0
6	6	0
0	0	0
14	4	10
0	0	0
6	6	0
0	0	0
3	3	0
0	0	0

Female  
Goals  
39.8%  
59.5%  
22.3%  
49.0%  
49.4%  
73.2%  
62.3%  
8.6%  
36.7%  
15.2%  
11.1%

## HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

## II. EMPLOYMENT ANALYSIS

TOTAL

	Black			Hispanic			Asian			American Indian			Filipino			Female		
	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy
Mgmt & Financial	0.56	0	N/A	2.02	2	N/A	1.05	0	(1.05)	0.07	0	N/A	1.05	0	(1.05)	6.77	3	(3.77)
Professional	0.04	0	N/A	0.13	0	N/A	0.07	0	N/A	0.01	0	N/A	0.07	0	N/A	0.60	0	N/A
A&E, Science, Computer	0.03	0	N/A	0.07	0	N/A	0.16	0	N/A	0.00	0	N/A	0.16	0	N/A	0.22	0	N/A
Technical	0.40	0	N/A	0.89	0	N/A	1.03	0	(1.03)	0.02	0	N/A	1.03	0	(1.03)	2.94	0	(2.94)
es	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Administrative Support	0.98	0	N/A	2.91	1	(1.91)	1.23	1	N/A	0.08	0	N/A	1.23	0	(1.23)	10.25	10	N/A
Services	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Crafts	0.27	0	N/A	1.55	2	N/A	0.55	0	N/A	0.04	0	N/A	0.55	0	N/A	0.52	0	N/A
Operative Workers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Transportation	0.24	0	N/A	0.96	1	N/A	0.14	0	N/A	0.02	0	N/A	0.14	0	N/A	0.46	0	N/A
Laborers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00

Goals are set by job categories for each protected group. An underrepresentation is indicated by a negative number, but if the DISCREPANCY is less than -1.00 position, a N/A will be displayed to show there is no underrepresentation.

000340

File: Trade WOFO 2000

Date: 10/03/08

Input by: Lad

# City of San Diego / Equal Opportunity Contracting CONSTRUCTION TRADE ANALYSIS REPORT

CLFA Data reflect statistical labor force availability for Construction Trade Employment in San Diego, CA

Company: Cass Construction, Inc.

## I. TOTAL CRAFTS &amp; TRADE WORK FORCE:

## San Diego, CA County Labor Force Availability Goals

	Black			Hispanic			Asian			American Indian			Filipino			White			Other		
	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F
Brick, Block or Stone Masons	1.4%	0	0	43.5%	0	0	1.0%	0	0	0.4%	0	0	1.0%	0	0	0	0	0	0	0	0
Carpenters	2.3%	0	0	33.9%	0	0	1.7%	0	0	0.5%	0	0	1.7%	0	0	0	0	0	0	0	0
Carpet, Floor & Tile Installers & Finishers	0.9%	0	0	40.2%	0	0	0.8%	0	0	0.3%	0	0	0.8%	0	0	0	0	0	0	0	0
Cement Masons, Concrete Finishers	4.4%	0	0	67.6%	0	0	0.0%	0	0	0.4%	0	0	0.0%	0	0	0	0	0	0	0	0
Construction Laborers	3.4%	1	0	50.8%	27	0	1.8%	1	0	0.8%	0	0	1.8%	0	0	23	0	0	0	0	0
Drywall Installers, Ceiling Tile Installers	1.3%	0	0	55.5%	0	0	1.1%	0	0	0.2%	0	0	1.1%	0	0	0	0	0	0	0	0
Electricians	5.8%	0	0	15.9%	0	0	7.6%	0	0	0.5%	0	0	7.6%	0	0	0	0	0	0	0	0
Elevator Installers and Repairers	0.0%	0	0	5.9%	0	0	0.0%	0	0	0.0%	0	0	0.0%	0	0	0	0	0	0	0	0
First-Line Supervisors/Managers	1.0%	0	0	20.7%	0	0	2.0%	0	0	0.9%	0	0	2.0%	0	0	0	0	0	0	0	0
Glaziers	1.8%	0	0	24.5%	0	0	0.0%	0	0	0.0%	0	0	0.0%	0	0	0	0	0	0	0	0
Helpers, Construction Trades	0.0%	0	0	46.2%	0	0	6.2%	0	0	0.8%	0	0	6.2%	0	0	0	0	0	0	0	0
Millwrights	0.0%	0	0	31.3%	0	0	12.5%	0	0	0.0%	0	0	12.5%	0	0	0	0	0	0	0	0
Misc. Const. Equipment Operators	4.3%	0	0	19.7%	6	0	0.0%	0	1	1.8%	0	0	0.0%	0	0	12	0	0	0	0	0
Painters, Construction & Maintenance	3.0%	0	0	45.7%	0	0	3.2%	0	0	1.1%	0	0	3.2%	0	0	0	0	0	0	0	0
Pipelayers, Plumbers, Pipe & Steam Fitters	4.0%	0	0	29.2%	0	0	2.1%	0	0	0.6%	0	0	2.1%	0	0	0	0	0	0	0	0
Plasterers and Stucco Masons	5.4%	0	0	66.9%	0	0	0.0%	0	0	3.4%	0	0	0.0%	0	0	0	0	0	0	0	0
Roofers	1.2%	0	0	55.7%	0	0	0.6%	0	0	0.9%	0	0	0.6%	0	0	0	0	0	0	0	0
Security Guards & Surveillance Officers	17.3%	0	0	20.2%	0	0	6.6%	0	0	0.8%	0	0	6.6%	0	0	0	0	0	0	0	0
Sheet Metal Workers	3.6%	0	0	26.4%	0	0	5.1%	0	0	0.9%	0	0	5.1%	0	0	0	0	0	0	0	0
Structural Metal Fabricators & Fitters	0.0%	0	0	26.3%	0	0	0.0%	0	0	0.0%	0	0	0.0%	0	0	0	0	0	0	0	0
Welding, Soldering & Brazing Workers	4.5%	0	0	47.5%	0	0	10.0%	1	0	1.2%	0	0	10.0%	0	0	1	0	0	0	0	0
Workers, Extractive Crafts, Miners	2.8%	0	0	32.4%	0	0	2.4%	0	0	0.8%	0	0	2.4%	0	0	0	0	0	0	0	0
<b>TOTAL</b>		<b>1</b>	<b>0</b>		<b>33</b>	<b>0</b>		<b>2</b>	<b>1</b>		<b>0</b>	<b>0</b>		<b>0</b>	<b>0</b>		<b>36</b>	<b>0</b>		<b>0</b>	<b>0</b>

## How to Read Total Work Force Section:

The information blocks in Section 1 (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading CLFA Data are the County Labor Force Availability (CLFA) data for each employment and ethnic/gender category.

Brick, Block or Stone Masons	0	0	0
Carpenters	0	0	0
Carpet, Floor & Tile Installers & Finishers	0	0	0
Cement Masons, Concrete Finishers	0	0	0
Construction Laborers	52	52	0
Drywall Installers, Ceiling Tile Installers	0	0	0
Electricians	0	0	0
Elevator Installers and Repairers	0	0	0
First-Line Supervisors/Managers	0	0	0
Glaziers	0	0	0
Helpers, Construction Trades	0	0	0
Millwrights	0	0	0
Misc. Const. Equipment Operators	19	18	1
Painters, Construction & Maintenance	0	0	0
Pipelayers, Plumbers, Pipe & Steam Fitters	0	0	0
Plasterers and Stucco Masons	0	0	0
Roofers	0	0	0
Security Guards & Surveillance Officers	0	0	0
Sheet Metal Workers	0	0	0
Structural Metal Fabricators & Fitters	0	0	0
Welding, Soldering & Brazing Workers	2	2	0
Workers, Extractive Crafts, Miners	0	0	0

TOTAL 73 72 1

TOTAL EMPLOYEES			Female Goals
ALL	M	F	
0	0	0	1.0%
0	0	0	2.2%
0	0	0	1.7%
0	0	0	1.5%
52	52	0	2.8%
0	0	0	1.5%
0	0	0	4.2%
0	0	0	0.0%
0	0	0	2.7%
0	0	0	0.0%
0	0	0	0.8%
0	0	0	0.0%
19	18	1	3.2%
0	0	0	6.0%
0	0	0	1.9%
0	0	0	1.4%
0	0	0	0.9%
0	0	0	14.9%
0	0	0	3.2%
0	0	0	0.0%
2	2	0	10.9%
0	0	0	2.8%

## How to Read Construction Crafts &amp; Trade Work Force Analysis:

The percentages listed in the goals column are calculated by multiplying the CLFA data by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA data. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

## II. CONSTRUCTION CRAFTS &amp; TRADE WORK FORCE ANALYSIS:

	Black			Hispanic			Asian			American Indian			Filipino			Female		
	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy
Brick, Block or Stone Masons	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Carpenters	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Carpet, Floor & Tile Installers & Finishers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Cement Masons, Concrete Finishers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Construction Laborers	1.77	1	N/A	26.42	27	N/A	0.94	1	N/A	0.42	0	N/A	0.94	0	N/A	1.46	0	(1.46)
Drywall Installers, Ceiling Tile Installers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Electricians	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Elevator Installers and Repairers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
First-Line Supervisors/Managers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Glaziers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Helpers, Construction Trades	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Millwrights	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Misc. Const. Equipment Operators	0.82	0	N/A	3.74	6	2.26	0.00	1	1.00	0.30	0	N/A	0.00	0	N/A	0.61	1	N/A
Painters, Construction & Maintenance	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Pipelayers, Plumbers, Pipe & Steam Fitters	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Plasterers and Stucco Masons	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Roofers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Security Guards & Surveillance Officers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Sheet Metal Workers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Structural Metal Fabricators & Fitters	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Welding, Soldering & Brazing Workers	0.09	0	N/A	0.95	0	N/A	0.20	1	N/A	0.02	0	N/A	0.20	0	N/A	0.22	0	N/A
Workers, Extractive Crafts, Miners	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00

Goals are set by job categories for each protected group. An under representation is indicated by a negative number, but if the DISCREPANCY is less than - 1.00 position, a N/A will be displayed to show there is no under representation.

000341

# REQUEST FOR COUNCIL ACTION

## CITY OF SAN DIEGO

1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE ONLY)

AC290046

331

TO:  
CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):

ENGINEERING &amp; CAPITAL PROJECTS

3. DATE:

01/13

9/24/08

4. SUBJECT:

Ruffin Road Storm Drain Emergency Repair

5. PRIMARY CONTACT (NAME, PHONE &amp; MAIL STA.):

Marnell Gibson 619-533-5213 MS612

6. SECONDARY CONTACT (NAME, PHONE &amp; MAIL STA.):

Jamal Batta 619-533-3769 MS611 7482

7. CHECK BOX IF REPORT TO  
COUNCIL IS ATTACHED ☐

## 8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	100	100	100
DEPT.	533	534	533
ORGANIZATION	2000	2707 / 2755	2000
OBJECT ACCOUNT	4222	4222	4222
JOB ORDER	007800	007011 / 004402	007816 / 007800
C.I.P. NUMBER		N/A	N/A
AMOUNT	\$1,000,000	910,131.35	700,000

9. ADDITIONAL INFORMATION / ESTIMATED COST:

Est Project Cost: \$2,711,073.35

This Action (Dept. 533) \$ 1,700,000.00

This Action (Dept. 534) \$ 910,131.35

Current Appropriation \$ 100,942.00

(Job Order 130092)

## 10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT. E&CP	<i>[Signature]</i>	9/24/08	9	DEPUTY CHIEF	<i>[Signature]</i>	11/26/08
2	STORMWATER	<i>[Signature]</i>	9/26/08	10	COO	<i>[Signature]</i>	11/24/08
3	GENERAL SERVICES	<i>[Signature]</i>	9/26/08	11	CITY ATTORNEY	<i>[Signature]</i>	12/18/08
4	EAS	<i>[Signature]</i>	9/29/08	12	ORIGINATING DEPARTMENT	<i>[Signature]</i>	12/19/08
5	EOC	<i>[Signature]</i>	10/3/08	DOCKET COORD: _____ COUNCIL LIAISON: _____			
6	COUNCIL LIAISON	<i>[Signature]</i>	10/7/08	COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/>			
7	FM/CIP	<i>[Signature]</i>	10/27/08	REFER TO: _____ COUNCIL DATE: 1/13/09			
8	COMPTROLLER	<i>[Signature]</i>	11/14/08				

11. PREPARATION OF:

☒ RESOLUTION(S)☐ ORDINANCE(S)☐ AGREEMENT(S)☐ DEED(S)

1. Authorizing the City Comptroller to transfer an amount not to exceed \$1,000,000 from the General Fund – Storm Water Department, Fund 100, Dept 533, to Fund 630221, General Fund Contributions to the CIP, and \$500,000 & \$200,000 from previously encumbered funds in Auditor's Certificate 2900142 & 2800789 respectively; and
2. Authorizing the City Comptroller to transfer an amount not to exceed \$910,131.35 from the General Fund – General Services Department, Fund 100, Dept 534, to Fund 630221, General Fund Contributions to the CIP, and;

(CONTINUED)

11A. STAFF RECOMMENDATIONS:

ADOPT THE RESOLUTION(S).

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S):

6

COMMUNITY AREA(S):

Kearny Mesa

ENVIRONMENTAL IMPACT:

This activity is statutorily exempt from CEQA pursuant to State CEQA Guidelines, Section 15269

HOUSING IMPACT:

None

OTHER ISSUES:

## BOX 11. PREPARATION OF RESOLUTIONS (Continued):

3. Authorizing the City Comptroller to increase the Fiscal Year 2009 Capital Improvements Program budget by an amount not to exceed \$2,610,131.35 in CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair), contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer, and
4. Authorizing the City Comptroller to appropriate and expend an amount not to exceed \$2,610,131.35 in Fund 630221, General Fund Contributions to the CIP, CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair) , and;
5. Ratifying a sole source design contract and amendment #1 to the contract with Harris & Associates for CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair), in an amount not to exceed \$322,762, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer, and;
6. Ratifying and executing amendment #2 to the sole source design contract with Harris & Associates for CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair), in an amount not to exceed \$55,590 for a total contract amount not to exceed \$377,352, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer, and;
7. Ratifying a sole source construction contract with Cass Construction Inc. for CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair), in an amount not to exceed \$1,700,000, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer, and
8. Authorizing the City Comptroller to transfer expenditures and encumbrances in an amount not to exceed \$910,135 from the General Fund – General Services Department, Fund 100, Department 534, Job Order 007011 to CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair); and
9. Authorizing the City Comptroller to transfer expenditures and encumbrances in an amount not to exceed \$700,000 from the General Fund – Storm Water Department, Fund 100, Department 533, Job Order 007816 and Job Order 007800 to CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair); and
10. Authorizing the City Comptroller to return excess budgeted funds, if any, to the appropriate reserves.

# REPORT TO THE CITY COUNCIL EXECUTIVE SUMMARY SHEET

DATE REPORT ISSUED: November 20, 2008  
 ATTENTION: Council President and City Council  
 ORIGINATING DEPT.: Engineering and Capital Projects  
 SUBJECT: Ruffin Road Storm Drain Emergency Repair  
 COUNCIL DISTRICT: 6  
 STAFF CONTACT: Marnell Gibson 619-533-5213 or Jamal Batta 619-533-3769

## REQUESTED ACTION:

- Transfer funds from General Fund 100 to CIP 13-005. Emergency Drain Projects for the purpose of funding the Ruffin Road Storm Drain Emergency Repair (job order 130092)
- Ratify sole source contracts for design and construction of the Ruffin Road Storm Drain Emergency Repair

## EXECUTIVE SUMMARY:

The existing storm drain pipe at 4141 Ruffin Road is located in a fill slope at the west end of a ravine behind commercial buildings on Ruffin Road. The pipe and slope were eroding at an accelerated rate and threatening to undermine the existing structures and creating a public safety concern if not stabilized immediately. Additionally, the pipe was not functioning as intended, and its continued failure could result in upstream flooding.

Due to the emergency status of this project, staff awarded sole source contracts to Harris and Associates for the emergency design of the repairs, and to CASS Construction Inc. for the construction. An informational memo dated April 25, 2008 was sent to City Council to describe the emergency nature of the project and the sole source contracts being awarded to repair the storm drain facilities. The cost for these two contracts is approximately \$377,352 for Harris and \$1,700,000 for CASS Construction. The scope of work for Harris & Associates includes research of existing records, soil testing and evaluation, and preparation of construction drawings and specifications. The scope of work for Cass Construction, Inc. includes the placement of fill material to stabilize and reconstruct the slope, the installation of 60-inch reinforced concrete pipe and associated structures, as well as landscaping and restoration of the slope.

Construction is currently at 92% complete, the pipeline has been installed and construction is expected to finish by late December 2008.

## EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego  
 Goals: 15% Voluntary (MBE/WBE/DEB/DVE/OBE)  
 Subcontractor Participation:  
     Harris & Associates, Inc. \$78,389 Certified Firms ( 24.29%)  
     \$43,727 Other Firms (13.55%)  
     Work Force Report Submitted-Equal Opportunity  
     Plan required. Staff will monitor plan and adherence to  
     Nondiscrimination Ordinance.

CASS Construction Inc. N/A. As an emergency sole source construction project being done on a time and material basis, subcontractors are hired for small, specialized tasks (e.g. fencing, steel reinforcement, and pavement restoration). Actual percentages will not be known until construction is finished.

REPORT TO THE CITY COUNCIL  
EXECUTIVE SUMMARY SHEETFISCAL CONSIDERATIONS:

The funds for this action are available in Fund 100, General Fund

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

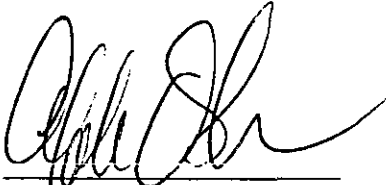
Informational memo dated April 25, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None.

KEY STAKEHOLDERS:

- Harris & Associates
- Cass Construction, Inc.
- Progressive Insurance



Patti Boekamp, Director  
Engineering and Capital Projects



David Jarrell  
Deputy Chief Public Works



009345

## ORIGINATING

DEPT. \_\_\_\_\_  
NO.: **547**

Amount: \$2,554,541.35 Fund: 100

Date: \_\_\_\_\_ By: Bryce Collins 

FUND OVERRIDE ☐

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Vendor: Harris & Associates

Date: December 16, 2008 By: Bryce Collins

AC-361 (REV 2-92)

FUND OVERRIDE	
---------------	--

AC 2900467

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL RATIFYING  
EMERGENCY SOLE SOURCE CONTRACTS;  
TRANSFERRING AND EXPENDING FUNDS; AND TAKING  
RELATED ACTIONS REGARDING THE RUFFIN ROAD  
STORM DRAIN EMERGENCY REPAIR PROJECT.

WHEREAS, in April 2008, the failure of the City's storm drain pipe at 4141 Ruffin Road created an immediate threat to public health and safety; and

WHEREAS, pursuant to Municipal Code section 22.3212(c), the Purchasing Agent notified the City Council of the emergency award of sole source contracts to repair the storm drain by Memorandum dated April 25, 2008; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the Council hereby ratifies the sole source design contract with Harris & Associates and the first amendment thereto, on file in the office of the City Clerk as Document Nos. C-14581 and C-14655 respectively, in connection with the Ruffin Road Storm Drain Emergency Repair Project, in an amount not to exceed \$322,762.00.
2. That the Mayor or his designee is hereby authorized to execute a second amendment to the design contract with Harris & Associates in an amount not to exceed \$54,590.00, a copy of which is on file in the office of the City Clerk as Document No. RR-\_\_\_\_\_.
3. That the Council hereby ratifies the sole source construction contract with Cass Construction, Inc. in connection with the Ruffin Road Storm Drain Emergency Repair Project,

in an amount not to exceed \$1,700,000.00, a copy of which is on file in the office of the City Clerk as Document No. C-14613.

4. That an increase to the Fiscal Year 2009 Capital Improvements Program budget is hereby authorized by an amount not to exceed \$2,610,131.35 in CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair), provided that the City Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

5. That the City Comptroller is hereby authorized to transfer the following amounts:

- (a) \$910,131.35 from General Fund – General Services Department, Fund No. 100, Dept 534, to Fund No. 630221, General Fund Contributions to the CIP.
- (b) \$910,135.00 in expenditures and encumbrances from General Fund – General Services Department, Fund No. 100, Dept 534, Job Order 007011, to CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair).
- (c) \$700,000.00 from General Fund – Storm Water Department, Fund No. 100, Dept 533, Job Order 007816 and Job Order 007800, to CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair).
- (d) \$1,000,000.00 from General Fund - Storm Water Department, Fund No. 100, Dept 533, to Fund 630221, General Fund Contributions to the CIP, and \$500,000.00 and \$200,000.00 from previously encumbered funds in Auditor's Certificate Nos. 2900142 and 2800789 respectively.

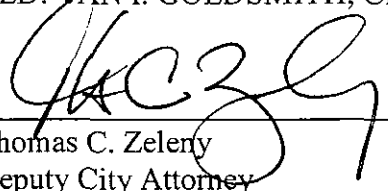
6. That the City Comptroller is further authorized to appropriate and expend an amount not to exceed \$2,610,131.35 from Fund No. 630221, General Fund Contributions to the CIP, CIP 13-005.0, Emergency Drainage Projects (Job Order 130092 – Ruffin Road Storm Drain Emergency Repair), solely and exclusively to provide funds for the above agreements and related costs.

7. That the City Comptroller is further authorized to return excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.

8. That the above activities are statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines sections 15269(b) and 15269(c) as an emergency project necessary to repair public facilities essential to public health, safety, and welfare, and to prevent or mitigate an emergency.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

  
Thomas C. Zeleny  
Deputy City Attorney

TCZ:mb  
12/01/08  
Cert.No:2900467  
Or.Dept:Eng&CP  
R-2009-713

000350

(R-2009-713)

I hereby certify that the foregoing Resolution was passed by the Council of the City of Diego,  
at its meeting of \_\_\_\_\_.

ELIZABETH S. MALAND, City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

**SECOND AMENDMENT TO CONSULTANT AGREEMENT  
FOR RUFFIN ROAD STORM DRAIN EMERGENCY REPAIR**

This Second Amendment to the Agreement between the City of San Diego and Harris & Associates, Inc. for 4141 Ruffin Road Storm Drain Emergency Repair dated is hereby entered into by and between the City of San Diego [City], a municipal corporation, and Harris & Associates, Inc. [Consultant].

**RECITALS**

A. The City and Consultant [collectively referenced herein as the "Parties"] entered into the Agreement, which is on file in the Office of the City Clerk as Document No. C-14581, to provide Professional Services for 4141 Ruffin Road Storm Drain Emergency Repair [Project].

B. The Parties entered into a First Amendment to the Agreement for the Consultant to provide additional Professional Services, for a compensation amount not to exceed \$63,849.00.

C. The City needs additional Professional Services for the Project, including a mitigation and monitoring plan, additional soils sampling and testing, and continuing project support.

NOW, THEREFORE, in consideration of the Recitals stated above and incorporated herein by this reference and the mutual obligations of the Parties expressed herein, the Parties agree to modify the Agreement, which is incorporated herein by reference, as follows:

**SECOND AMENDMENT**

1. Section 1.1 is amended to read as follows:

"The Consultant shall perform Professional Services as set forth in the written Scope of Services (Exhibits A, A-1, and A-2) at the direction of the City."

2. Section 3.1 is amended to read as follows:

"The City shall pay the Consultant for all Professional Services and all expenses related to performance of the Scope of Services in Exhibit A in an amount not to exceed \$246,584.00, according to the Compensation and Fee Schedule in Exhibit B. The City shall also pay the Consultant for all Professional Services and all expenses related to performance of the Scope of Services in Exhibit A-1 in a lump sum amount not to exceed \$63,849.00, according to the Compensation and Fee Schedule in Exhibit B-1. The City shall further pay the Consultant for all Professional Services and all expenses related to performance of the Scope of Services in Exhibit A-2 in a lump sum amount not to exceed \$54,590.00, according to the Fee Proposal in Exhibit B-2. The compensation for Additional Services (described in Section 3.2), if any, shall not exceed \$12,329.00. The total compensation to Consultant under this Agreement shall not exceed \$377,352.00.

3. Section 3.3 is amended to read as follows:

"The City shall pay the Consultant in accordance with the Compensation and Fee Schedules (Exhibits B, B-1, and B-2). For the duration of this Agreement, the Consultant shall not be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedules. The Consultant shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. The Consultant shall include with each invoice a description of completed Professional Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt."

4. The following attachments are incorporated herein by reference as follows:

Exhibits A-2 (Letter from Consultant to City dated August 21, 2008), and B-2 (Consultant's Fee Proposal of ~~\$52,390~~ <sup>\$54,590</sup>).

5. The Parties agree that this Second Amendment to the Agreement represents the entire understanding of the Consultant and the City and affects only those paragraphs referred to, and all other terms and conditions of the Agreement and prior Amendment(s) remain in full force and effect.

000353

IN WITNESS WHEREOF, this Second Amendment to the Agreement Between The City of San Diego and Harris & Associates, Inc. for 4141 Ruffin Road Storm Drain Emergency Repair is executed by the City of San Diego acting by and through its Mayor, or his designee, pursuant to San Diego Municipal Code section 22.3212(c) authorizing such execution, and by the Consultant.

HARRIS & ASSOCIATES

By: 

Title: Vice President

Date: 10/16/2008

CITY OF SAN DIEGO

By: \_\_\_\_\_

Downs Prior  
Principal Contract Specialist

Date: \_\_\_\_\_

I HEREBY APPROVE the form and legality of the foregoing Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

MICHAEL J. AGUIRRE, City Attorney

By: \_\_\_\_\_

Deputy City Attorney





August 21, 2008

Mr. Jamal Batta, P.E.  
**City of San Diego**  
600 B Street, Suite 1200  
San Diego, CA 92101-4905

**Subject: Additional Professional Engineering Services for Slope Repair and Storm Drain Replacement at 4141 Ruffin Road, in the City of San Diego – Addendum #2**

Dear Jamal:

Harris & Associates appreciates the opportunity to present this proposal to provide additional professional engineering services for the subject project, Addendum #2.

The following enumerates additional efforts as directed by the City and as required for the proposed project improvements.

## **SCOPE OF SERVICES**

### **1.0 Additional Review and Progress Meetings**

Per the City's request, Harris & Associates has been attending weekly meetings with the City, Progressive Insurance, and the Contractor to coordinate the on-going design and project construction. There also have been numerous unanticipated additional coordination meetings with the Progress Insurance to coordinate project issues that required preparation of additional exhibits, changes to the plans, and explanation of the design.

Based on our original scope of services, we included eight (8) progress meetings for the completion of the project. Up to this point we attended thirteen (13) monthly progress meetings and three (3) additional meetings regarding landscaping and environmental issues. We estimate additional six meetings will be required until project completion.

### **2.0 Environmental Document**

Based on our discussions with the City's Development Services Department (DSD), a Revegetation Mitigation and Biological Monitoring Plan will be required. Our sub-consultant, Tierra Environmental Services, will be prepare a formal Revegetation Mitigation and Biological Plan in conformance with the City of San Diego standards and requirements to include the following:

- Define specific measures, including the planting of select areas with indigenous species of native shrubs and ground covers.
- Appropriate planting ratios and densities
- Areas to be used for replanting
- Long-term biological monitoring



000355

- Construction monitoring
- Performance assurances
- Required maintenance
- Irrigation requirements
- Temporary-habitat protection fencing requirements; and other measures to enhance or preserve site resource values.

Blue-line drawings to accompany the Revegetation Mitigation and Biological Monitoring Plan text will be prepared on a screened base sheet of the original engineering drawings, and all specifications will be indicated on the drawn plans.

Tierra will also attend five meetings with the City regulatory agencies to coordinate the preparation of the environmental document.

It is our understanding that the environmental document will prepared concurrently with the progression of construction activities. We anticipate the final document will be approved after the completion of construction.

### **3.0 Soils Sampling and Agronomic Soil-Testing**

Per the City's request, we will provide Agronomic soil testing services to determine agricultural suitability of the soil for installation of the proposed plant species, as follows:

- Field work to obtain required soil samples.
- Preparation and transport of samples to and from soil laboratory.
- Review and interpretation of soil testing results.
- Plan revisions incorporating required changes to plan/seed palettes.

### **4.0 Assistance During Construction**

Due to the fast pace of project construction, unforeseen field conditions, and other coordination issues with Progressive Insurance, we are requesting additional fees to cover our efforts to continue to assist the City and the Contractor through completion of construction.

### **FEE PROPOSAL**

Harris proposes to provide the above services for the total "Lump Sum" fee of \$54,590. A breakdown of our fees is attached for your evaluation.

Our services would be accomplished per our existing contract with the City where all terms and conditions are stated therein.



000356

Jamal Batta, P.E.  
August 21, 2008  
4141 Ruffin Rd Slope Repair – Addendum # 2  
Page 3 of 3

We appreciate the opportunity to be of service to the City of San Diego and we look forward to a successful project.

Sincerely,  
**Harris & Associates**

A handwritten signature in black ink, appearing to read "Ehab Gerges".

Ehab Gerges, PE  
Associate/Design Manager

CC: Javier Saunders, Harris & Associates

000357

## FEE PROPOSAL

Task/Subtask	Harris & Associates					Subconsultants		Subtotals
	PD	PM	PE	DE	TECH	Environ. Doc. Tierra	Landscape Arch. GFH	
<b>Task 1.0: Additional Review and Progress Mtgs.</b>								
Additional Progress Meetings	40	60						\$19,600
								\$0
Subtotal Hours =	40	60	0	0	0			100
Subtotal (\$) =	\$8,800	\$10,800	\$0	\$0	\$0	\$0	\$0	\$19,600
<b>Task 2.0: Environmental Document</b>								
	6	12				\$17,600		\$21,080
								\$0
Subtotal Hours =	6	12	0	0	0			18
Subtotal (\$) =	\$1,320	\$2,160	\$0	\$0	\$0	\$17,600	\$0	\$21,080
<b>Task 3.0: Soils Sampling and Agronomic Soil-Testing</b>								
							\$2,750	\$2,750
Subtotal Hours =	0	0	0	0	0			0
Subtotal (\$) =	\$0	\$0	\$0	\$0	\$0	\$0	\$2,750	\$2,750
<b>Task 6.0: Assist. During Construction</b>								
	6	20	24		24			\$11,160
Subtotal Hours =	6	20	24	0	24			74
Subtotal (\$) =	\$1,320	\$3,600	\$3,960	\$0	\$2,280	\$0	\$0	\$11,160
<b>Total Hours by Classification =</b>	52	92	24	0	24			192
<b>Total (\$) by Classification =</b>	\$11,440	\$16,560	\$3,960	\$0	\$2,280	\$17,600	\$2,750	
<b>Percentage of Time Allocated (by hours) =</b>	27%	48%	13%	0%	13%			\$54,590

## MAYORAL ACTION

000358

TO: MAYOR	FROM: Engineering & Capital Projects	DATE: June 12, 2008
-----------	--------------------------------------	---------------------

SUBJECT: 4141 Ruffin Road Storm Drain Emergency Repair – First Amendment to Consultant Agreement

- ACTION REQUESTED:
1. Authorizing the Mayor to execute for the City of San Diego, the First Amendment to Consultant Agreement with Harris & Associates for professional civil engineering consulting design services; and
  2. Authorizing the expenditure of \$63,849 from JO 130092, 4141 Ruffin Road Storm Drain Emergency Repair, for the purpose of executing this First Amendment to the Agreement.

## SUPPORTING INFORMATION:

Background:

On May 7, 2008, the City of San Diego entered into a sole source consulting services agreement for \$258,913 with Harris & Associates (C-14581) to provide design professional services for the subject project located west of the Chargers Training Facilities. During the design and construction process, it was determined that additional geotechnical engineering services will be required for the project. The additional services will be, but are not limited to, performing field observation and in-place density testing, evaluating temporary slope stability, laboratory testing of material, and performing special inspection at the site during placement of structural concrete. Staff negotiated the scope of services and fees with the consultant. The cost of these additional services is estimated to be \$63,849, of which \$59,989 will be allocated for Ninyo & Moore (MBE), subconsultant. Funds to execute this First Amendment to the agreement are available in the project. The total cost for the consulting design services including this amendment will be \$322,762.

Environmental Impact:

This activity (Executing a Consultant Agreement) is not subject to CEQA pursuant to State CEQA Guidelines Section 15060 (c) (3). The activities for which this agreement will be used are Statutorily Exempt from CEQA pursuant to State CEQA Guidelines Sections §15262 (Feasibility and Planning Studies) and §15269(a) (Emergency).

Council District:

6

Community Area:

Kearny Mesa

Attachment:

Amendment: three signed originals and two copies

Fiscal Impact:

The First Amendment to the agreement cost is \$63,849. Funds are available in Fund 30300, 4141 Ruffin Road Storm Drain Emergency Repair, Job Order 130092.

PLEASE ROUTE TO THE APPROPRIATE AUTHORITY – REF: A.R. 25.60 OR 25.70

ACCOUNTING INFORMATION			ROUTING AND APPROVAL		
BUDGETED	BUDGETED		APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE
FUND	30300		ORIGINATING DEPARTMENT	<i>[Signature]</i>	6/12/08
DEPARTMENT	30244		EAS	<i>[Signature]</i>	6/20/08
ORGANIZATION	102		EOC	<i>[Signature]</i>	6/23/08
OBJECT ACCOUNT	4118		CIP/FM	<i>[Signature]</i>	6/30/08
JOB ORDER NUMBER	130092		Auditors	<i>[Signature]</i>	6/30/08
C.I.P. NO.	130092	13-003.0	Deputy Chief		
FACILITY			COO		
AMOUNT	\$63,849		Purchasing/Contracts		
ESTIMATED COST:	\$63,849		CITY ATTORNEY		
AUDITOR'S CERTIFICATE NUMBER: (FOR AUDITOR'S USE ONLY)	2900012		CITY CLERK		
FOR INFORMATION CONTACT:					
NAME: Jamal Batta					
MAIL STATION:	TELEPHONE NUMBER:				
612	533-7482				

COPY  
DUPLICATE  
ORIGINALFIRST AMENDMENT TO AGREEMENT

This First Amendment to the Agreement Between The City of San Diego and Harris & Associates, Inc. for 4141 Ruffin Road Storm Drain Emergency Repair dated May 7, 2008 is hereby entered into by and between the City of San Diego [City], a municipal corporation, and Harris & Associates, Inc. [Consultant].

RECITALS

A. The City and Consultant [collectively referenced herein as the "Parties"] entered into the Agreement, which is on file in the Office of the City Clerk as Document No. C-14581\_\_\_\_\_, to provide Professional Services for 4141 Ruffin Road Storm Drain Emergency Repair/ [Project].

B. The City desires to execute a First Amendment to the Agreement for the Consultant to provide additional Professional Services, as indicated in the expanded Scope of Services [Exhibit A-1], for a compensation amount not to exceed \$63,849.00, with total compensation for services provided under the Agreement not to exceed \$322,762.00

C. Consultant desires to provide the services required under this First Amendment.

NOW, THEREFORE, in consideration of the Recitals stated above and incorporated herein by this reference and the mutual obligations of the Parties expressed herein, the Parties agree to modify the Agreement, which is incorporated herein by reference, as follows:

1. Section 1.1 is amended to read as follows:

"The Consultant shall perform Professional Services as set forth in the written Scope of Services (Exhibits A and A-1) at the direction of the City."

Document No. C-14655  
Filed JUL 14 2008  
Office of the City Clerk  
San Diego, California

Section 3.1 is amended to read as follows:

"The City shall pay the Consultant for all Professional Services and all expenses related to performance of the Scope of Services in Exhibit A in an amount not to exceed \$ 258,913.00, according to the Compensation and Fee Schedule in Exhibit B. The City shall also pay the Consultant for all Professional Services and all expenses related to performance of the Scope of Services in Exhibit A-1 in a lump sum amount not to exceed \$63,849.00,, according the Compensation and Fee Schedule in Exhibit B-1. The compensation for Additional Services (described in Section 3.2), if any, shall not exceed \$12,329.00. The total compensation to Consultant under this Agreement shall not exceed \$322,762.00.

3. Section 3.2 (additional services) is amended to read as follows:

" The City may require that the Consultant perform additional Professional Services beyond those described in the Scope of Services [Additional Services]. Prior to the Consultant's performance of Additional Services, the City and the Consultant must agree in writing upon a fee for the Additional Services, including reasonably related expenses, in accordance with the Compensation and Fee Schedule in Exhibit B. The City will pay the Consultant for the performance of Additional Services in accordance with Section 3.3."

4. Section 3.3 is amended to read as follows:

"The City shall pay the Consultant in accordance with the Compensation and Fee Schedules (Exhibits B and B-1). For the duration of this Agreement, the Consultant shall not be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedules. The Consultant shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. The Consultant shall include with each invoice a description of completed Professional Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt."

5. Section 2.2 is amended to read as follows:

"Time is of the essence for each provision of this Agreement, unless otherwise specified in this Agreement. The time for performance of the Scope of Services in Exhibits A and A-1 is set forth in the Time Schedules in Exhibits C and C-1, respectively."

6. The following attachments are incorporated herein by reference as follows:

Exhibits A-1 (Scope of Services), B-1 (Compensation and Fee Schedule), and C-1 (Time Schedule).

000362

7.

The Parties agree that this First Amendment to the Agreement represents the entire understanding of the Consultant and the City and affects only those paragraphs referred to, and all other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, this First Amendment to the Agreement Between The City of San Diego and Harris & Associates, Inc. for 4141 Ruffin Road Storm Drain Emergency Repair is executed by the City of San Diego acting by and through its Mayor, or his designee, pursuant to San Diego Municipal Code section 22.3212(c) authorizing such execution, and by the Consultant.



000363

COPY

DUPLICATE  
ORIGINAL

THE CITY OF SAN DIEGO

Mayor or Designee

By: \_\_\_\_\_

Downs Prior

Principal Contract Specialist

Purchasing & Contracting Department

7/9/08

*Harris & Associates, Inc.*

By: \_\_\_\_\_

Name: \_\_\_\_\_

DAVID SERVEIS

Title: \_\_\_\_\_

VICE PRESIDENT

Date: \_\_\_\_\_

7.2.08

I HEREBY APPROVE the form and legality of the foregoing Amendment on this

10<sup>th</sup>

day of

July

, 2008.

MICHAEL AGUIRRE, City Attorney

By: \_\_\_\_\_

Thomas C. Zeleny

Deputy City Attorney

000364

## EXHIBIT A-1



Harris & Associates

Program Managers  
Construction Managers  
Civil Engineers

June 3, 2008

Mr. Jamal Batta, P.E.  
Associate Civil Engineer  
City of San Diego  
600 B Street, Suite 1200  
San Diego, CA 92101-4905

**Subject: Additional Professional Engineering Services for Slope Repair and Storm Drain Replacement at 4141 Ruffin Road, in the City of San Diego**

Dear Jamal:

Harris & Associates appreciates the opportunity to present this proposal to provide additional professional engineering services for geotechnical, special inspection and laboratory testing for the subject project.

We have retained Ninyo & Moore to provide these services. Our proposal is based on our understanding of the project, discussions with the project team, and a preliminary construction schedule submitted by Cass Construction dated May 19, 2008. Our services will include geotechnical observation of the grading operations and special inspection and materials testing during construction. Our inspection services are anticipated to include inspections during placement of the concrete. Our estimated hours for grading and storm drain construction are based on the preliminary construction schedule.

### SCOPE OF SERVICES

We propose to provide geotechnical, special inspection and materials testing services during grading, the construction of the proposed storm drain, and construction of the pavement sections.

We anticipate our scope of services for this project to include the following:

1. Perform field observation and in-place density testing during slope repair grading. We assume a technician on site full time for 55 days. Our estimated fee to perform observation and testing services will be approximately.
2. Geologic/engineering field services to evaluate temporary slope stability, keyways, and the suitability of foundation excavations. We anticipate that a California Certified Engineering Geologist would be on site to supplement our technician for 40 hours during the grading operation.
3. Laboratory testing of the materials used for fill, backfill, and pavement construction. The tests performed are anticipated to include Proctor density/optimum moisture content with rock corrections, sieve analysis, and R-value testing. Tests in addition to these may be performed as appropriate.

4. Perform special inspection at the site during placement of the structural concrete. Our special inspector, or ACI technician, will sample the fresh material and measure its temperature, and slump, as well as cast one set of three concrete cylinders for every 150 cubic yards placed, or fraction thereof, during a day's placement. We assume 20 hours of special inspection will be required.
5. Laboratory testing for strength testing of concrete. We assume testing eight concrete cylinders.
6. Prepare an as-graded geotechnical report presenting the results of our observation and testing services.

000365

## **FEE PROPOSAL**

Harris proposes to provide the above services for the total "Lump Sum" fee of \$63,849. A breakdown our fees is attached for your evaluation.

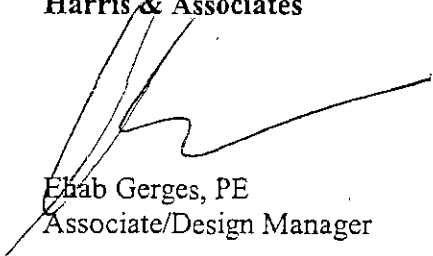
Our services would be accomplished per our existing contract with the City where all terms and conditions are stated therein.

## **PROJECT ASSUMPTIONS**

The estimated fee is based on the scope of services presented above, our understanding of the existing conditions and proposed improvements, and the project schedule prepared by Cass Construction dated May 19, 2008. The breakdown of Ninoy and Moore hours is presented in Table 1. Based on Cass Construction's schedule, the slope reconstruction will be finished within 55 days. We anticipate having a technician on site full time for the 55 days to observe and test the mass grading, 60-inch reinforced concrete pipe construction, anchor walls, clean out, and outlet structure construction. A geologist will visit the site periodically to observe Geotechnical conditions and map keys and benches. As part of our assumptions, we anticipate that material will be imported to the site and have included qualification testing in our estimated fee.

We appreciate the opportunity to be of service to the City of San Diego and we look forward to a successful project.

Sincerely,  
**Harris & Associates**



Ehab Gerges, PE  
Associate/Design Manager

CC: Javier Saunders

## Ruffin Road Fee Proposal for Additional Professional Engineering Services

000366

Task/Subtask	Harris & Associates			Geotech N&M	Subtotals
	PD	PM	PE		
	\$220	\$180	\$165		
1 Perform Field Observation & In-Place Density Testing		2	12	\$42,821	\$45,161
2 Geologic/Engineering Field Services				\$6,512	\$6,512
3 Laboratory Testing of Fill & Pavement Materials				\$4,818	\$4,818
4 Perform special inspection at the site during placement of the structural concrete				\$2,415	\$2,415
5 Laboratory Testing for Strength Testing of Concrete				\$194	\$194
6 Prepare As-Graded Geotechnical Report	2	6		\$3,229	\$4,749
Subtotal Hours =	2	8	12		22
Subtotal (\$) =	\$440	\$1,440	\$1,980	\$59,989	\$63,849

000367

Exhibit C-1  
Time Schedule

**EXHIBIT C-1**  
**TIME SCHEDULE**

This an Emergency Project, and Harris will work with the City to complete the project design and construction by October 2008.

SUBJECT: 4141 Ruffin Road Storm Drain Emergency Repair – First Amendment to Consultant Agreement

**GENERAL CONTRACT INFORMATION**

Recommended Consultant: Harris and Associates  
Amount of this Action: \$ 63,849.00  
Original Contract: \$258,913.00  
Cumulative Amount: \$322,762.00  
Funding Source: City

<b><u>SUBCONSULTANT PARTICIPATION</u></b>	<b><u>This Action</u></b>		<b><u>Cumulative</u></b>	
D-Max Engineer (Other)	\$ 0.00	0.00%	\$ 10,000.00	3.09%
Gary F. Hoyt (Other)	\$ 0.00	0.00%	\$ 12,727.00	3.94%
Ninyo & Moore (Other)	\$59,989.00	93.95%	\$ 80,989.00	25.09%
Tierra Environmental (Other)	\$ 0.00	0.00%	\$ 14,540.00	4.50%
<b>Total Certified Subconsultant Participation</b>	<b>\$ 0.00</b>	<b>0.00%</b>	<b>\$ 0.00</b>	<b>0.00%</b>
<b>Total Other Participation</b>	<b>\$59,989.00</b>	<b>93.95%</b>	<b>\$118,256.00</b>	<b>36.62%</b>
<b>Total Subconsultant Participation</b>	<b>\$59,989.00</b>	<b>93.95%</b>	<b>\$118,256.00</b>	<b>36.62%</b>

**EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

Equal Opportunity: Required

Harris and Associates submitted a Work Force Report for their San Diego County employees dated April 22, 2008, with a total of 27 employees. The firm's Work Force Analysis reflects under representations in the following categories:

Asians in A&E, Science, Computer  
Females in A&E, Science, Computer; and Technical

A comparison to the Work Force Report Analysis from the previous year indicates improvements with the corrections to the under representations of Hispanics in Technical, and Females in Mgmt & Financial and Professional. Harris and Associates has an approved Equal Opportunity Plan on file which details strategies to remedy deficiencies in their workforce. Staff will continue to monitor their efforts

**ADDITIONAL COMMENTS**

The Work Force Analysis is attached.

  
JLR

000370

File: Admin WOFO 2000

Date WOFO Submitted: 4/22/2008

Input by: kh

Goals reflect statistical labor force  
availability for the following: 2000 CLFA  
San Diego, CA

City of San Diego/Equal Opportunity Contracting  
**WORK FORCE ANALYSIS REPORT**

FOR

Company: Harris &amp; Associates

## I. TOTAL WORK FORCE:

	Black			Hispanic			Asian			American Indian			Filipino			White			Other		
	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	M	F	M	F		
Mgmt & Financial	3.3%	0	0	11.9%	0	0	8.2%	0	0	0.4%	0	0	8.2%	0	0	0	0	0	0		
Professional	4.0%	0	0	12.6%	0	0	8.5%	0	0	0.5%	0	0	8.5%	0	0	0	0	0	0		
A&E, Science, Computer	2.8%	0	0	7.3%	2	0	16.2%	1	0	0.3%	0	0	16.2%	10	0	0	0	0	0		
Technical	6.6%	0	0	14.8%	1	0	17.2%	3	0	0.4%	0	0	17.2%	6	0	0	0	0	0		
Sales	3.9%	0	0	19.5%	0	0	8.8%	0	0	0.6%	0	0	8.8%	0	0	0	0	0	0		
Administrative Support	7.0%	0	0	20.8%	0	1	8.8%	0	1	0.6%	0	0	8.8%	0	2	0	0	0	0		
Services	5.5%	0	0	36.9%	0	0	9.7%	0	0	0.8%	0	0	9.7%	0	0	0	0	0	0		
Crafts	4.5%	0	0	25.8%	0	0	9.1%	0	0	0.7%	0	0	9.1%	0	0	0	0	0	0		
Operative Workers	4.3%	0	0	38.8%	0	0	20.8%	0	0	0.3%	0	0	20.8%	0	0	0	0	0	0		
Transportation	8.1%	0	0	32.1%	0	0	4.5%	0	0	0.5%	0	0	4.5%	0	0	0	0	0	0		
Laborers	4.4%	0	0	54.0%	0	0	4.1%	0	0	0.5%	0	0	4.1%	0	0	0	0	0	0		
TOTAL		0	0		3	1		4	1		0	0		16	2		0	0		0	0

## HOW TO READ TOTAL WORK FORCE SECTION:

The information blocks in Section I (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading of "CLFA Goals" are the County Labor Force Availability goals for each employment and ethnic/gender category.

Mgmt & Financial  
Professional  
A&E, Science, Computer  
Technical  
Sales  
Administrative Support  
Services  
Crafts  
Operative Workers  
Transportation  
Laborers

TOTAL EMPLOYEES			Female Goals
ALL	M	F	
0	0	0	39.8%
0	0	0	59.5%
13	13	0	22.3%
10	10	0	49.0%
0	0	0	49.4%
4	0	4	73.2%
0	0	0	62.3%
0	0	0	8.6%
0	0	0	38.7%
0	0	0	15.2%
0	0	0	11.1%
<b>TOTAL</b>	<b>27</b>	<b>23</b>	<b>4</b>

## HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

## II. EMPLOYMENT ANALYSIS

	Black			Hispanic			Asian			American Indian			Filipino			Female		
	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy
Mgmt & Financial	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Professional	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
A&E, Science, Computer	0.36	0	N/A	0.95	2	1.05	2.11	1	(1.11)	0.04	0	N/A	2.11	10	7.89	2.90	0	(2.90)
Technical	0.66	0	N/A	1.48	1	N/A	1.72	3	1.28	0.04	0	N/A	1.72	6	4.28	4.90	0	(4.90)
Sales	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Administrative Support	0.28	0	N/A	0.83	1	N/A	0.35	1	N/A	0.02	0	N/A	0.35	2	1.65	2.93	4	1.07
Services	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Crafts	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Operative Workers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Transportation	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Laborers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00

Goals are set by job categories for each protected group. An underrepresentation is indicated by a negative number, but if the DISCREPANCY is less than -1.00 position, a N/A will be displayed to show there is no underrepresentation.

000371

File: Admin WOFO 2000

Date WOFO Submitted: 4/22/2008  
Input by: khGoals reflect statistical labor force  
availability for the following: 2000 CLFA  
San Diego, CACity of San Diego/Equal Opportunity Contracting  
**WORK FORCE ANALYSIS REPORT**

FOR

Company: Harris &amp; Associates

## I. TOTAL WORK FORCE:

	Black			Hispanic			Asian			American Indian			Filipino			White			Other		
	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F
Mgmt & Financial	3.3%	0	0	11.9%	0	0	6.2%	0	0	0.4%	0	0	8.2%	0	0	0	0	0	0	0	0
Professional	4.0%	0	0	12.6%	0	0	8.5%	0	0	0.5%	0	0	8.5%	0	0	0	0	0	0	0	0
A&E, Science, Computer	2.8%	0	0	7.3%	2	0	18.2%	1	0	0.3%	0	0	16.2%	10	0	0	0	0	0	0	0
Technical	6.6%	0	0	14.8%	1	0	17.2%	3	0	0.4%	0	0	17.2%	6	0	0	0	0	0	0	0
Sales	3.9%	0	0	19.5%	0	0	6.8%	0	0	0.8%	0	0	6.8%	0	0	0	0	0	0	0	0
Administrative Support	7.0%	0	0	20.8%	0	1	8.8%	0	1	0.8%	0	0	8.8%	0	2	0	0	0	0	0	0
Services	5.5%	0	0	36.9%	0	0	9.7%	0	0	0.6%	0	0	9.7%	0	0	0	0	0	0	0	0
Crafts	4.5%	0	0	25.6%	0	0	9.1%	0	0	0.7%	0	0	9.1%	0	0	0	0	0	0	0	0
Operative Workers	4.3%	0	0	38.8%	0	0	0.3%	0	0	0.3%	0	0	20.8%	0	0	0	0	0	0	0	0
Transportation	8.1%	0	0	32.1%	0	0	4.5%	0	0	0.5%	0	0	4.5%	0	0	0	0	0	0	0	0
Laborers	4.4%	0	0	54.0%	0	0	4.1%	0	0	0.5%	0	0	4.1%	0	0	0	0	0	0	0	0
<b>TOTAL</b>		<b>0</b>	<b>0</b>		<b>3</b>	<b>1</b>		<b>4</b>	<b>1</b>		<b>0</b>	<b>0</b>		<b>16</b>	<b>2</b>		<b>0</b>	<b>0</b>		<b>0</b>	<b>0</b>

## HOW TO READ TOTAL WORK FORCE SECTION:

The information blocks in Section I (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading of "CLFA Goals" are the County Labor Force Availability goals for each employment and ethnic/gender category.

Mgmt & Financial  
Professional  
A&E, Science, Computer  
Technical  
Sales  
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Services  
Crafts  
Operative Workers  
Transportation  
Laborers

TOTAL EMPLOYEES			Female Goals
ALL	M	F	
0	0	0	39.8%
0	0	0	59.5%
13	13	0	22.3%
10	10	0	49.0%
0	0	0	49.4%
4	0	4	73.2%
0	0	0	62.3%
0	0	0	8.6%
0	0	0	38.7%
0	0	0	15.2%
0	0	0	11.1%
<b>27</b>	<b>23</b>	<b>4</b>	

## HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

## II. EMPLOYMENT ANALYSIS

TOTAL

	Black			Hispanic			Asian			American Indian			Filipino			Female		
	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy
Mgmt & Financial	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Professional	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
A&E, Science, Computer	0.36	0	N/A	0.95	2	1.05	2.11	1	(1.11)	0.04	0	N/A	2.11	10	7.89	2.90	0	(2.90)
Technical	0.66	0	N/A	1.48	1	N/A	1.72	3	1.28	0.04	0	N/A	1.72	6	4.28	4.90	0	(4.90)
Sales	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Administrative Support	0.28	0	N/A	0.83	1	N/A	0.35	1	N/A	0.02	0	N/A	0.35	2	1.65	2.93	4	1.07
Services	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Crafts	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Operative Workers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Transportation	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Laborers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00

Goals are set by job categories for each protected group. An underrepresentation is indicated by a negative number, but if the DISCREPANCY is less than -1.00 position, a N/A will be displayed to show there is no underrepresentation.



The City of San Diego  
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

**CERTIFICATE OF UNALLOTTED BALANCE**

AC 2800789  
DEPT. NO: 533/534

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \_\_\_\_\_ Fund: \_\_\_\_\_

Purpose: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENEF/ EQUIP/	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE ☐

### CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$800,000.00

Vendor: CASS Construction, Inc

Purpose: Authorizing Mayor to execute a construction contract with Cass Construction for repair of the storm drain and to stabilize the slope. Authorizing the expenditure from Dept 533 and 534 for the purpose of executing the construction contract.

Date: May 12, 2008 By: Jessica Olson 

ACCOUNTING DATA										
ACCTG. LINE	CY FY	FUND	DEPT	ORG	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	EQUIP	FACILITY	AMOUNT
001	0	100	533	2000	4222	007816				\$200,000.00
002	0	100	534	2755	4222	004420				\$600,000.00

AC-9571 REV 2-970

FUND OVERRIDE

AC 2800789



THE CITY OF SAN DIEGO  
MAYOR JERRY SANDERS

## M E M O R A N D U M

DATE: April 25, 2008

TO: Honorable Council President Scott Peters and Members of the City Council

FROM: Hildred Pepper, Director, Purchasing and Contracting Department

SUBJECT: 4141 Ruffin Road Storm Drain Emergency Repair – Sole Source Award for Consultant and Contractor Agreements

---

Pursuant to San Diego Municipal Code Section 22.3212, "Contracts Not Required to be Competitively Bid", Section C, "A contract to remedy an emergency that affects public health or safety," I am hereby notifying you of the sole source selections and forthcoming contract awards to Harris & Associates, a civil engineering consulting firm, for investigation, evaluation, and design of the 4141 Ruffin Road Storm Drain Emergency Repair Project; and Cass Construction Inc., a general contractor, for construction of the project.

The existing storm drain pipe is located in a fill slope at the west end of a ravine west of the San Diego Charger Training Facility and behind a structure owned by Progressive, an auto insurance company at 4141 Ruffin Road in Kearny Mesa. The pipe and the slope are eroding at an accelerated rate and will undermine the existing structures and threaten personnel safety if not stabilized immediately. In addition, the pipe is currently not functional as intended, and its continued failure could result in upstream flooding.

The scope of work for Harris & Associates includes research of existing records, soil testing and evaluation, and preparation of construction drawings and specifications. The fee for the consultant work is estimated at \$255,000.

The scope of work for Cass Construction, Inc. includes the placement of fill material to stabilize and reconstruct the slope, the installation of 60-inch reinforced concrete pipe and associated structures, and landscaping the slope, at a not to exceed amount of \$1,700,000.

Staff personnel from the Engineering and Capital Project Department have determined that hiring Harris & Associates and Cass Construction Inc. is the best course of action to complete the design and construction of this project in the timeliest manner. Staff recommended sole

Page 2

Honorable Council President Scott Peters and Members of the City Council  
April 24, 2008

source procurement because the timetable required for a standard competitive selection would not support the urgency and criticality of the situation. Also, both Harris & Associates, and Cass Construction, Inc., are very familiar with the conditions and design requirements at this location, because they have previously conducted work on a similar project for the City at Palm Street and 4<sup>th</sup> Avenue.

These contracts will be presented to the City Council at a future date for ratification via a 1472.

If there are any questions regarding the project design/engineering, please contact Jamal Batta, Senior Civil Engineer, at ext. 37482. For contractual questions, please contact Downs Prior, Principal Contract Specialist, at ext. 55298.



Hildred Pepper  
Director, Purchasing and Contracting Department  
(619) 236-7163

JB/dls

Cc: David Jarrell, Deputy Chief of Public Works  
Patti Boekamp, Director, Engineering and Capital Projects  
Mario Sierra, Director, General Services  
Afshin Oskoui, Assistant Director, Engineering and Capital Projects  
Tammy Rimes, Assistant Director, Purchasing and Contracts  
Thomas Zeleny, Deputy City Attorney  
Jamal Batta, Senior Civil Engineer, Right-of-Way Division  
Downs Prior, Principal Contract Specialist

000375

REQUEST FOR  
MAYORAL ACTION

TO: MAYOR	FROM: Engineering & Capital Projects	DATE: May 1, 2008		
SUBJECT: 4141 Ruffin Road Storm Drain Emergency Repair – Sole Source Consultant Agreement				
ACTION REQUESTED:				
1. Authorizing the Mayor or his designee to execute for the City a sole source agreement with Harris & Associates for professional civil engineering consulting design services; and 2. Authorizing the expenditure of \$258,913 from Fund 100, General Fund, Department 534, General Services, for the purpose of executing this agreement				
SUPPORTING INFORMATION:				
<u>Background:</u> The City negotiated a sole source consulting services agreement for \$258,913 with Harris & Associates to provide design professional services for the subject project located behind the Chargers Training Facilities. The scope of services will include, but is not limited to, research of existing records, soil testing and evaluation, hydrology analysis, and preparation of construction drawings and specifications needed by the City in order to hire a contractor to execute the work. In addition, the scope of services will include providing construction assistance services during construction of the project. The estimated fee for the consultant work is \$258,913. Staff from the Engineering and Capital Projects Department has determined that hiring Harris & Associates would be the best course of action to complete the investigations and design for this project in the most timely manner. The existing storm drain pipe is located in a fill slope. The pipe and the slope are eroding at an accelerated rate and will undermine existing structures and threaten personnel safety if not stabilized immediately. The consultant worked in the past for the City on a similar project at Palm & 4 <sup>th</sup> Avenue.				
<u>Environmental Impact:</u> This activity (Executing a Consultant Agreement) is not subject to CEQA pursuant to State CEQA Guidelines Section 15060 (c) (3). The activities for which this agreement will be used are Statutorily Exempt from CEQA pursuant to State CEQA Guidelines Sections §15262 (Feasibility and Planning Studies) and §15269(a) (Emergency).				
Document No. <b>C-14581</b> Filed <b>MAY 07 2008</b> <b>Office of the City Clerk</b> <b>San Diego, California</b>				
Council District:	6			
Community Area:	Kearny Mesa			
Attachment:	Agreement, Three signed originals and two copies; Sole Source Memo			
Fiscal Impact:	The consultant fee is \$258,913. Funds are available in Fund 100, Dept 534, Org 2707, OA 4222, JO 7011)			
PLEASE ROUTE TO THE APPROPRIATE AUTHORITY - REF: A.R. 25.60 OR 25.70				
			ROUTING AND APPROVAL	
	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE	
ACCOUNTING INFORMATION	BUDGETED	BUDGETED	ORIGINATING DEPARTMENT	
FUND	100 -		EAS	5-1-08
DEPARTMENT	534 -		EOC	5/1/08
ORGANIZATION	2707 -			5/05/08
OBJECT ACCOUNT	4222 -		CIP/FM	5/1/08
JOB ORDER NUMBER	007011 -		Auditors	5/2/08
C.I.P. NO.			Deputy Chief	5/5/08
FACILITY			COO	Not required -
AMOUNT	\$258,913 -		Purchasing/Contracts	5/7/08
ESTIMATED COST:			CITY ATTORNEY	5/7/08
	\$258,913		CITY CLERK	5-7-08
AUDITOR'S CERTIFICATE NUMBER: (FOR AUDITOR'S USE ONLY)				
AC 2800758				
FOR INFORMATION CONTACT:				
NAME: Jamal Batta				
MAIL STATION:	TELEPHONE NUMBER:			
612	533-7482			

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING

AC 2800758

DEPT. NO. 534

**000377**

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \_\_\_\_\_ Fund: \_\_\_\_\_

Purpose: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENEF/	EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT											

FUND OVERRIDE ☐

**CERTIFICATION OF UNENCUMBERED BALANCE**

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$258,913.00

Vendor: Harris and Associates

Purpose: Authorizing Mayor to execute a sole source agreement with Harris & Associates for professional civil engineering consulting design services for the subject project located behind the Chargers Training Facilities.

Date: May 2, 2008 By: Jessica Olson *Jessica Olson*

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENEF/	EQUIP	FACILITY	AMOUNT
001	0	100	534	2707	4222	007011					\$258,913.00
TOTAL											\$258,913.00

AC-351 (REV 2-92)

FUND OVERRIDE ☐

**C-14581**

AC 2800758

000379

COPY

DUPLICATE  
ORIGINAL

**AGREEMENT BETWEEN  
THE CITY OF SAN DIEGO  
AND  
HARRIS & ASSOCIATES, INC.  
FOR  
4141 RUFFIN ROAD STORM DRAIN EMERGENCY REPAIR**

**CONTRACT NUMBER: H084375**

Document No. C- 14581  
Filed MAY 07 2008  
Office of the City Clerk  
San Diego, California

## TABLE OF CONTENTS

### ARTICLE I CONSULTANT SERVICES

1.1	Scope of Services .....	- 1 -
1.2	Contract Administrator.....	- 1 -
1.3	City Modification of Scope of Services.....	- 2 -
1.4	RESERVED.....	- 2 -
1.5	Confidentiality of Services. ....	- 2 -
1.6	Competitive Bidding .....	- 2 -

### ARTICLE II DURATION OF AGREEMENT

2.1	Term of Agreement.....	- 2 -
2.2	Time of Essence. ....	- 3 -
2.3	Notification of Delay. ....	- 3 -
2.4	Delay.....	- 3 -
2.5	City's Right to Suspend for Convenience. ....	- 3 -
2.6	City's Right to Terminate for Convenience.....	- 3 -
2.7	City's Right to Terminate for Default.....	- 4 -

### ARTICLE III COMPENSATION

3.1	Amount of Compensation .....	- 4 -
3.2	Additional Services .....	- 5 -
3.3	Manner of Payment. ....	- 5 -
3.4	RESERVED.....	- 5 -
3.5	Eighty Percent Notification.....	- 5 -

### ARTICLE IV CONSULTANT'S OBLIGATIONS

4.1	Industry Standards .....	- 5 -
4.2	Right to Audit.....	- 5 -
4.3	Insurance. ....	- 6 -
4.4	Subcontractors. ....	- 9 -
4.5	Contract Activity Report.....	- 10 -
4.6	Non-Discrimination Requirements.....	- 11 -
4.7	Drug-Free Workplace.....	- 11 -
4.8	Title 24/Americans with Disabilities Act.....	- 12 -

---

4.9	Product Endorsement.....	- 12 -
4.10	Conflict of Interest. ....	- 12 -
4.11	Mandatory Assistance .....	- 13 -
4.12	Compensation for Mandatory Assistance.....	- 14 -
4.13	Attorney Fees related to Mandatory Assistance. ....	- 14 -
4.14	Energy Conservation Specifications.....	- 14 -
4.15	RESERVED.....	- 14 -
4.16	Sustainable Building Policy.....	- 14 -
4.17	Design-Build Competition Eligibility. ....	- 14 -
4.18	Storm Water Management Discharge Control. ....	- 15 -

## ARTICLE V RESERVED

## ARTICLE VI INDEMNIFICATION

6.1	City Indemnity. ....	- 15 -
6.2	Consultant Indemnity.....	- 15 -

## ARTICLE VII MEDIATION

7.1	Mandatory Non-binding Mediation .....	- 16 -
7.2	Mandatory Mediation Costs. ....	- 16 -
7.3	Selection of Mediator.....	- 16 -
7.4	Conduct of Mediation Sessions.....	- 16 -

## ARTICLE VIII INTELLECTUAL PROPERTY RIGHTS

8.1	Work For Hire.....	- 17 -
8.2.	Rights in Data.....	- 17 -
8.3	Intellectual Property Rights Assignment.....	- 17 -
8.4	Moral Rights.....	- 17 -
8.5	Subcontracting .....	- 18 -
8.6	Publication Design. ....	- 18 -
8.7	Intellectual Property Warranty and Indemnification. ....	- 18 -
8.8	Enforcement Costs.....	- 18 -

---



## ARTICLE IX MISCELLANEOUS

9.1	Notices.....	- 19 -
9.2	Headings.....	- 19 -
9.3	Non-Assignment.....	- 19 -
9.4	Independent Contractors .....	- 19 -
9.5	Consultant and Subcontractor Principals for Professional Services..	- 19 -
9.6	Additional Consultants or Contractors..	- 19 -
9.7	Employment of City Staff.....	- 20 -
9.8	Covenants and Conditions .....	- 20 -
9.9	Compliance with Controlling Law.....	- 20 -
9.10	Jurisdiction and Attorney Fees.....	- 20 -
9.11	Successors in Interest.....	- 20 -
9.12	Integration..	- 20 -
9.13	Counterparts. ....	- 20 -
9.14	No Waiver.....	- 20 -
9.15	Severability.....	- 21 -
9.16	Municipal Powers.....	- 21 -
9.17	Drafting Ambiguities..	- 21 -
9.18	Conflicts Between Terms.....	- 21 -
9.19	Consultant Evaluation.....	- 21 -
9.20	Exhibits Incorporated.....	- 21 -
9.21	Survival of Obligations.....	- 21 -

### CONSULTANT LUMP SUM AGREEMENT EXHIBITS

Exhibit A - Scope of Services

Exhibit B - Compensation and Fee Schedule

Exhibit C - Time Schedule

Exhibit D - City's Equal Opportunity Contracting Program Consultant Requirements

- |      |                          |
|------|--------------------------|
| (AA) | Work Force Report        |
| (BB) | Subcontractors List      |
| (CC) | Contract Activity Report |

Exhibit E - Consultant Certification for a Drug-Free Workplace

Exhibit F - Determination Form

Exhibit G - City Council Green Building Policy 900-14

Exhibit H - Consultant Evaluation Form

Exhibit I - Vendor Registration Form

**AGREEMENT BETWEEN  
THE CITY OF SAN DIEGO  
AND HARRIS & ASSOCIATES, Inc.  
FOR CONSULTANT SERVICES**

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation [City], and **Harris & Associates, Inc.** [Consultant] for the Consultant to provide Professional Services to the City for the **4141 Ruffin Road Storm Drain Emergency Repair** [Project].

**RECITALS**

The City wants to retain the services of a professional civil engineering firm to provide design, plans, specifications, and construction support services [Professional Services].

The Consultant represents that it has the expertise, experience and personnel necessary to provide the Professional Services for the Project.

The City and the Consultant [Parties] want to enter into an Agreement whereby the City will retain the Consultant to provide, and the Consultant shall provide, the Professional Services for the Project [Agreement].

In consideration of the above recitals and the mutual covenants and conditions set forth, herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

**ARTICLE I**

**CONSULTANT SERVICES**

The above-listed recitals are true and correct and are hereby incorporated by reference.

**1.1 Scope of Services.** The Consultant shall perform the Professional Services as set forth in the written Scope of Services (Exhibit A) at the direction of the City

**1.2 Contract Administrator.** The Engineering and Capital Projects Department is the contract administrator for this Agreement. The Consultant shall provide the Professional Services under the direction of a designated representative of the Engineering and Capital Projects Department. The City's designated representative will communicate with the Consultant on all matters related to the administration of this Agreement and the Consultant's performance of the Professional Services rendered hereunder. When this Agreement refers to communications to or with the City, those communications will be with the designated representative, unless the designated representative or the Agreement specifies otherwise. However, when this Agreement refers to an act or approval to be performed by City, that act or approval shall be performed by the Mayor or his designee, unless the Agreement specifies otherwise.

**1.3 City Modification of Scope of Services.** The City may, without invalidating this Agreement, order changes in the Scope of Services by altering, adding to or deducting from the Professional Services to be performed. All such changes shall be in writing and shall be performed in accordance with the provisions of this Agreement. If any such changes cause an increase or decrease in the Consultant's cost of, or the time required for, the performance of any of the Professional Services, the Consultant shall immediately notify the City. If the City deems it appropriate, an equitable adjustment to the Consultant's compensation or time for performance may be made, provided that any adjustment must be approved by both Parties in writing in accordance with Section 9.1 of this Agreement..

#### **1.4 RESERVED**

**1.5 Confidentiality of Services.** All Professional Services performed by the Consultant, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to the Consultant, at the time that it was disclosed to the Consultant by the City, (b) subsequently becomes publicly known through no act or omission of the Consultant, or (c) otherwise becomes known to the Consultant other than through disclosure by the City. Except for Subcontractors covered by Section 4.4, neither the documents nor their contents shall be released to any third party without the prior written consent of the City.

**1.6 Competitive Bidding.** The Consultant shall ensure that any plans and specifications prepared, required, or recommended under this Agreement allow for competitive bidding. The Consultant shall design such plans or specifications so that procurement of services, labor or materials are not available from only one source, and shall not design plans and specifications around a single or specific product, piece of major equipment or machinery, a specific patented design, or a proprietary process, unless required by principles of sound engineering practice and supported by a written justification that has been approved in writing by the City. The Consultant shall submit this written justification to the City prior to beginning work on such plans or specifications. Whenever the Consultant recommends a specific product or equipment for competitive procurement, such recommendation shall include at least two brand names of products that are capable of meeting the functional requirements applicable to the Project.

## **ARTICLE II**

### **DURATION OF AGREEMENT**

**2.1 Term of Agreement.** This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and approved by the City Attorney in accordance with San Diego Charter Section 40. Unless otherwise terminated, it shall be effective until completion of the Scope of Services or May 1, 2009 whichever is the earliest but not to exceed five years unless approved by City ordinance.

**2.2 Time of Essence.** Time is of the essence for each provision of this Agreement, unless otherwise specified in this Agreement. The time for performance of the Scope of Services (Exhibit A) is set forth in the Time Schedule (Exhibit C).

**2.3 Notification of Delay.** The Consultant shall immediately notify the City in writing if the Consultant experiences or anticipates experiencing a delay in performing the Professional Services within the time frames set forth in the Time Schedule (Exhibit C). The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of the delay. If in the opinion of the City, the delay affects a material part of the Project, the City may exercise its rights under Sections 2.5-2.7 of this Agreement.

**2.4 Delay.** If delays in the performance of the Professional Services are caused by unforeseen events beyond the control of the Parties, such delay may entitle the Consultant to a reasonable extension of time, but such delay shall not entitle the Consultant to damages or additional compensation. Any such extension of time must be approved in writing by the City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the Consultant's work; inability to obtain materials, equipment, or labor; required additional Professional Services; or other specific reasons agreed to between the City and the Consultant; provided, however, that: (a) this provision shall not apply to, and the Consultant shall not be entitled to an extension of time for, a delay caused by the acts or omissions of the Consultant; and (b) a delay caused by the inability to obtain materials, equipment, or labor shall not entitle the Consultant to an extension of time unless the Consultant furnishes the City, in a timely manner, documentary proof satisfactory to City of the Consultant's inability to obtain materials, equipment, or labor.

**2.5 City's Right to Suspend for Convenience.** The City may, at its sole option and for its convenience, suspend all or any portion of the Consultant's performance of the Professional Services, for a reasonable period of time not to exceed six months. In accordance with the provisions of this Agreement, the City will give written notice to the Consultant of such suspension. In the event of such a suspension, in accordance with the provisions of Article III of this Agreement, the City shall pay to the Consultant a sum equivalent to the reasonable value of the Professional Services the Consultant has satisfactorily performed up to the date of suspension. Thereafter, the City may rescind such suspension by giving written notice of rescission to the Consultant. The City may then require the Consultant to resume performance of the Professional Services in compliance with the terms and conditions of this Agreement; provided, however, that the Consultant shall be entitled to an extension of time equal to the length of the suspension, unless otherwise agreed to in writing by the Parties.

**2.6 City's Right to Terminate for Convenience.** The City may, at its sole option and for its convenience, terminate all or any portion of the Professional Services agreed to pursuant to this Agreement by giving written notice of such termination to the Consultant. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Professional Services shall be effective upon receipt of the notice by the Consultant. After termination of this Agreement, the Consultant shall complete any and all additional work necessary for the orderly filing of documents and closing of the Consultant's Professional Services under this Agreement. For services satisfactorily rendered in completing the work, the Consultant shall be entitled to fair and reasonable compensation for the Professional Services

performed by the Consultant before the effective date of termination. After filing of documents and completion of performance, the Consultant shall deliver to the City all drawings, plans, calculations, specifications and other documents or records related to both the Project and to the Consultant's Professional Services on the Project. By accepting payment for completion, filing and delivering documents as called for in this paragraph, the Consultant discharges the City of all of the City's payment obligations and liabilities under this Agreement.

**2.7 City's Right to Terminate for Default.** If the Consultant fails to satisfactorily perform any obligation required by this Agreement, the Consultant's failure constitutes a Default. A Default includes the Consultant's failure to adhere to the Time Schedule. If the Consultant fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant under this Agreement. The rights and remedies of the City enumerated in this Section are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

**2.8 Consultant's Right to Terminate for Default.** If the City fails to satisfactorily perform any obligation required by this Agreement, the City's failure constitutes a Default. A Default includes the City's failure to adhere to the Time Schedule. If the City fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the Consultant specifying the nature of the Default, the Consultant may immediately cancel and/or terminate this Agreement, and terminate each and every right of the City, and any person claiming any rights by or through the City under this Agreement. The rights and remedies of the Consultant enumerated in this Section are cumulative and shall not limit, waive, or deny any of the Consultant's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the Consultant against the City

**2.9 Compensation Upon Termination for Default.** Upon termination for default by either the City or the Consultant, the Consultant shall be entitled to reasonable compensation per the terms of this agreement, as set forth in Exhibit B hereto, up to the date of termination. The City may reduce such compensation by the amount of the City's reasonable, good faith estimate of the City's damages caused by any default by the Consultant, if any.

## ARTICLE III

### COMPENSATION

**3.1 Amount of Compensation.** The City shall pay the Consultant for performance of all Professional Services rendered in accordance with this Agreement, including reasonably related expenses, in an amount not to exceed \$258,913.00. The compensation for the Scope of

Services shall be a lump sum amount not to exceed **\$246,584.00**, and the compensation for Additional Services (described in Section 3.2), if any, shall not exceed **\$12,329.00**.

**3.2 Additional Services.** The City may require that the Consultant perform additional Professional Services beyond those described in the Scope of Services [Additional Services]. Prior to the Consultant's performance of Additional Services, the City and the Consultant must agree in writing upon a fee for the Additional Services, including reasonably related expenses, in accordance with the Compensation and Fee Schedule (Exhibit B). The City will pay the Consultant for the performance of Additional Services in accordance with Section 3.3.

**3.3 Manner of Payment.** The City shall pay the Consultant in accordance with the Compensation and Fee Schedule (Exhibit B). For the duration of this Agreement, the Consultant shall not be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedule. The Consultant shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. The Consultant shall include with each invoice a description of completed Professional Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt.

**3.4 RESERVED**

**3.5 Eighty Percent Notification.** The Consultant shall promptly notify the City in writing of any potential cost overruns. Cost overruns include, but are not limited to the following: (1) where anticipated costs to be incurred in the next sixty calendar days, when added to all costs previously incurred, will exceed 80 percent of the maximum compensation for this Agreement; or (2) where the total cost for performance of the Scope of Services (Exhibit A) appears that it may be greater than the maximum compensation for this Agreement.

**ARTICLE IV**

**CONSULTANT'S OBLIGATIONS**

**4.1 Industry Standards.** The Consultant agrees that the Professional Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent professional Civil Engineering Consulting firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the City, the Mayor or his designee, or other representatives of the City is required, it is understood to be general approval only and does not relieve the Consultant of responsibility for complying with all applicable laws, codes, and good consulting practices.

**4.2 Right to Audit.**

**4.2.1 Access.** The City retains the right to review and audit, and the reasonable right of access to Consultant's and any Subcontractor's premises to review and audit the Consultant's or Subcontractor's compliance with the provisions of this Agreement [City's Right]. The City's Right includes the right to inspect and photocopy same, and to retain copies, outside of the Consultant's premises, of any and all Project-related records with appropriate safeguards, if such retention is deemed necessary by the City in its sole discretion. This information shall be kept by the City in the strictest confidence allowed by law.

**4.2.2 Audit.** The City's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the City determines are necessary to discover and verify that the Consultant or Subcontractor is in compliance with all requirements under this Agreement.

**4.2.2.1 Cost Audit.** If there is a claim for additional compensation or for Additional Services, the City's Right includes the right to examine, upon reasonable written notice, books, records, documents, and any and all other evidence and accounting procedures and practices that the City determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

**4.2.2.2 Accounting Records.** The Consultant and all Subcontractors shall maintain complete and accurate records in accordance with Generally Accepted Accounting Practices in the industry. Upon reasonable written notice, the Consultant and Subcontractors shall make available to the City for review and audit; all Project related accounting records and documents; and any other financial data. Upon the City's request, the Consultant and Subcontractors shall submit exact duplicates of originals of all requested records to the City. Labor and expenses for production of documents outside normal invoice detail shall be reimbursed to the Consultant at the rates indicated in Exhibit B.

**4.2.3 City's Right Binding on Subcontractors.** The Consultant shall include the City's Right as described in Section 4.2, in any and all of their subcontracts, and shall ensure that these sections are binding upon all Subcontractors.

**4.2.4 Compliance Required before Mediation or Litigation.** A condition precedent to proceeding with mandatory mediation and further litigation provided for in Article VII is the Consultant's and Subcontractors full compliance with the provisions of this Section 4.2 within sixty days of the date on which the City mailed a written request to review and audit compliance.

**4.3 Insurance.** The Consultant shall not begin the Professional Services under this Agreement until it has: (a) obtained, and provided to the City, insurance certificates and endorsements reflecting evidence of all insurance required in Article IV, Section 4.3.1; however, the City reserves the right to request, and the Consultant shall submit, copies of any policy upon reasonable request by the City; (b) obtained City approval of each company or companies as required by Article IV, Section 4.3.2; and (c) confirmed that all policies contain the specific provisions required in Article IV, Section 4.3.4. Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Except as provided for under California law, all policies of insurance required hereunder must provide that the City is entitled to thirty (30) days

prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement and Consultant's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by the City. To the extent that the Consultant may be required to indemnify the City for liabilities arising out of the performance of this agreement, such indemnification shall be limited to the remaining policy limits specified herein.

Further, the Consultant shall not modify any policy or endorsement thereto which increases the City's exposure to loss for the duration of this Agreement.

**4.3.1 Types of Insurance.** At all times during the term of this Agreement, the Consultant shall maintain insurance coverage as follows:

**4.3.1.1 Commercial General Liability.** Commercial General Liability (CGL) Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of **\$2 million** per occurrence and subject to an annual aggregate of **\$4 million**. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

**4.3.1.2 Commercial Automobile Liability.** For all of the Consultant's automobiles including owned, hired and non-owned automobiles, the Consultant shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of **\$1 million** per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

**4.3.1.3 Workers' Compensation.** For all of the Consultant's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Consultant shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of **\$1 million** of employers' liability coverage, and the Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

**4.3.1.4 Architects & Engineers Professional Liability.** For all of the Consultant's employees who are subject to this Agreement, the Consultant shall keep in full force and effect, Professional Liability coverage for professional liability with a limit of **\$1 million** per claim and **\$1 million** annual aggregate. The Consultant shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of the Project; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Project or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss. All defense costs shall be outside the limits of the policy.



**4.3.2 Deductibles.** All deductibles on any policy shall be the responsibility of the Consultant and shall be disclosed to the City at the time the evidence of insurance is provided.

**4.3.3 Acceptability of Insurers.**

**4.3.3.1** Except for the State Compensation Insurance Fund, all insurance required by this Contract or in the Special General Conditions shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the City.

**4.3.3.2** The City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

**4.3.4 Required Endorsements.**

The following endorsements to the policies of insurance are required to be provided to the City before any work is initiated under this Agreement.

**4.3.4.1 Commercial General Liability Insurance Endorsements.**

**ADDITIONAL INSURED.** To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

**PRIMARY AND NON-CONTRIBUTORY COVERAGE.** The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of Consultant's insurance and shall not contribute to it.

**SEVERABILITY OF INTEREST.** The policy or policies must be endorsed to provide that the Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

**4.3.4.2 Automobile Liability Insurance Endorsements**

**ADDITIONAL INSURED.** To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobile owned, leased, hired or borrowed by or on behalf of the Consultant.

**SEVERABILITY OF INTEREST.** The policy or policies must be endorsed to provide that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

#### **4.3.4.3 Worker's Compensation and Employer's Liability Insurance Endorsements.**

**WAIVER OF SUBROGATION.** The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for the City.

**4.3.5 Reservation of Rights.** The City reserves the right, from time to time, to review the Consultant's insurance coverage, limits, deductible and self-insured retentions to determine if they are acceptable to the City. The City will reimburse the Consultant for the cost of the additional premium for any coverage requested by the City in excess of that required by this Agreement without overhead, profit, or any other markup.

**4.3.6 Additional Insurance.** The Consultant may obtain additional insurance not required by this Agreement.

**4.3.7 Excess Insurance.** All policies providing excess coverage to the City shall follow the form of the primary policy or policies including but not limited to all endorsements.

**4.4 Subcontractors.** The Consultant's hiring or retaining of any third parties [Subcontractors] to perform services related to the Project [Subcontractor Services] is subject to prior approval by the City. The Consultant shall list on the Subcontractor List (Exhibit D Attachment BB) all Subcontractors known to the Consultant at the time this Agreement is entered. The City recognizes that due to the emergency nature of the work, formal written approval may not be possible prior to mobilization of Subcontractors. If at any time after this Agreement is entered into the Consultant identifies a need for additional Subcontractor Services of an urgent nature, the Consultant shall obtain verbal authorization from the City's project manager or other authorized City staff as designated in writing. To the extent that it is practicable to do so in non-urgent situations, the Consultant shall give written notice to the City of the need for Subcontractor Services before entering into a contract for such Subcontractor Services. Either before or after mobilizing Subcontractors, as applicable, the Consultant shall

provide a justification, a description of the scope of work, and an estimate of all costs for the Subcontractor Services.

**4.4.1 Subcontractor Contract.** All contracts entered into between the Consultant and any Subcontractor shall contain the information as described in Sections 4.6, 4.7, 4.10.2, and 4.18, and shall also provide as follows:

**4.4.1.1** Each Subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. Each Subcontractor shall obtain, and the Consultant shall require the Subcontractor to obtain, all policies described in Section 4.3.1 in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

**4.4.1.2** The Consultant is obligated to pay the Subcontractor, for Consultant and City-approved invoice amounts, out of amounts paid by the City to the Consultant, not later than fourteen working days from the Consultant's receipt of payment from the City. Nothing in this paragraph shall be construed to impair the right of the Consultant and any Subcontractor to negotiate fair and reasonable pricing and payment provisions among themselves.

**4.4.1.3** In the case of a deficiency in the performance of Subcontractor Services, the Consultant shall notify the City in writing of any withholding of payment to the Subcontractor, specifying: (a) the amount withheld; (b) the specific cause under the terms of the subcontract for withholding payment; (c) the connection between the cause for withholding payment and the amount withheld; and (d) the remedial action the Subcontractor must take in order to receive the amount withheld. Once the Subcontractor corrects the deficiency, the Consultant shall pay the Subcontractor the amount withheld within fourteen working days of the Consultant's receipt of the City's next payment.

**4.4.1.4** In any dispute between the Consultant and Subcontractor, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in Article VI of this Agreement in any dispute between the Consultant and Subcontractor should the City be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this position.

**4.4.1.5** The Subcontractor is bound to the City's Equal Opportunity Contracting Program covenants set forth in Article IV, Section 4.6 and Exhibit D of this Agreement.

**4.4.1.6** The City is an intended beneficiary of any work performed by the Subcontractor for purposes of establishing a duty of care between the Subcontractor and the City.

**4.5 Contract Activity Report.** The Consultant shall submit statistical information to the City as requested in the City's Contract Activity Report (Exhibit D Attachment CC). The statistical information shall include the amount of subcontracting provided by firms during the period covered by the Contract Activity Report. With the Contract Activity Report, the Consultant shall provide an invoice from each Subcontractor listed in the report. The Consultant

agrees to issue payment to each firm listed in the Report within fourteen working days of receiving payment from the City for Subcontractor Services as described in Section 4.4.1.

#### **4.6 Non-Discrimination Requirements.**

##### **4.6.1 Compliance with the City's Equal Opportunity Contracting Program.**

The Consultant shall comply with the City's Equal Opportunity Contracting Program Consultant Requirements (Exhibit D). The Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Consultant shall provide equal opportunity in all employment practices. The Consultant shall ensure that its Subcontractors comply with the City's Equal Opportunity Contracting Program Consultant Requirements. Nothing in this Section shall be interpreted to hold the Consultant liable for any discriminatory practice of its Subcontractors.

**4.6.2 Non-Discrimination Ordinance.** The Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subcontractors, vendors or suppliers. The Consultant shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between the Consultant and any Subcontractors, vendors and suppliers.

**4.6.3 Compliance Investigations.** Upon the City's request, the Consultant agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that the Consultant has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the Consultant for each subcontract or supply contract. The Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance (San Diego Municipal Code sections 22.3501-22.3517). The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment, and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. The Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

**4.7 Drug-Free Workplace.** The Consultant agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference. The Consultant shall certify to the City that it will provide a drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace form (Exhibit E).

**4.7.1 Consultant's Notice to Employees.** The Consultant shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition.

**4.7.2 Drug-Free Awareness Program.** The Consultant shall establish a drug-free awareness program to inform employees about : (1) the dangers of drug abuse in the work place; (2) the policy of maintaining a drug-free work place; (3) available drug counseling, rehabilitation, and employee assistance programs; (4) the penalties that may be imposed upon employees for drug abuse violations.

**4.7.3 Posting the Statement.** In addition to Section 4.7.1 above, the Consultant shall post the drug-free policy in a prominent place.

**4.7.4 Subcontractor's Agreements.** The Consultant further certifies that each contract for Subcontractor Services for this Project shall contain language that binds the Subcontractor to comply with the provisions of Article IV, Section 4.7 of this Agreement, as required by Sections 2.A.(1) through (3) of Council Policy 100-17. Consultants and Subcontractors shall be individually responsible for their own drug-free work place program.

**4.8 Title 24/Americans with Disabilities Act Requirements.** Consultant has sole responsibility for ensuring that all Project plans and other design services comply with all accessibility requirements under Title 24 of the California Code of Regulations, known as the California Building Code (Title 24), and under the Americans with Disabilities Act Accessibility Guidelines (ADAAG) in effect at the time the designs are submitted to the City for review. When a conflict exists between Title 24 and ADAAG, the most restrictive requirement shall be followed by Consultant (i.e., that which provides the most access). Consultant warrants and certifies that any and all plans and specifications prepared for the City in accordance with this agreement shall meet all requirements under Title 24 and ADAAG. Consultant understands that while the City will be reviewing Consultant's designs for compliance in specific and certain areas under Title 24 and ADAAG prior to acceptance of Consultant's designs, Consultant understands and agrees that the City's access review process and its acceptance of Consultant's designs in no way limits the Consultant's obligations under this agreement to prepare designs that comply with all requirements under Title 24 and ADAAG.

**4.9 Product Endorsement.** The Consultant acknowledges and agrees to comply with the provisions of City of San Diego Administrative Regulation 95.65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

**4.10 Conflict of Interest.** The Consultant is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

**4.10.1** If, in performing the Professional Services set forth in this Agreement, any member of the Consultant's organization makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the individual shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the individual's relevant financial interests. The

determination as to whether any individual members of the Consultant's organization must make disclosures of relevant financial interests is set forth in the Determination Form (Exhibit F).

**4.10.1.1** If a determination is made that certain individuals must disclose relevant financial interests, the statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. The individual shall file a Form 700 (Assuming Office Statement) within thirty calendar days of the City's determination that the individuals are subject to a conflict of interest code. Each year thereafter, the individuals shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the individual was subject to a conflict of interest code. A Form 700 (Leaving Office Statement) shall also be filed when the individual discontinues services under this Agreement.

**4.10.1.2** If the City requires an individual member of the Consultant's organization to file a statement of economic interests as a result of the Professional Services performed, the individual shall be considered a "City Official" subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.

**4.10.2** The Consultant shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships.

**4.10.3** The Consultant and its Subcontractors having subcontracts amounting to 1% or more of the value of the Professional Services agreed to under this Agreement are precluded from participating in design services on behalf of the contractor, construction management, and any other construction services related in any way to these Professional Services without the prior written consent of the City.

**4.10.4** The Consultant's personnel employed on the Project shall not accept gratuities or any other favors from any Subcontractors or potential Subcontractors. The Consultant shall not recommend or specify any product, supplier, or contractor with whom the Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

**4.10.5** If the Consultant violates any conflict of interest law or any of the provisions in this Section 4.10, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Consultant to liability to the City for attorney's fees and all damages sustained as a result of the violation.

**4.11 Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Professional Services provided under this Agreement, upon the City's request, the Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. The Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

**4.12 Compensation for Mandatory Assistance.** The City will compensate the Consultant for fees incurred for providing Mandatory Assistance as Additional Services under Section 3.2. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of the Consultant, its agents, officers, and employees, the Consultant shall reimburse the City. The City is then entitled to reimbursement of all fees paid to the Consultant, its agents, officers, and employees for Mandatory Assistance to the extent that such fees are attributable to the Consultant's negligent acts or omissions.

**4.13 Attorney Fees related to Mandatory Assistance.** In providing the City with dispute or litigation assistance, the Consultant or its agents, officers, and employees may incur expenses and/or costs. The Consultant agrees that any attorney fees it may incur as a result of assistance provided under Section 4.11 are not reimbursable. The Parties agree this provision does not in any way affect their rights to seek attorney fees under Article VIII, Section 8.8 of this Agreement.

**4.14 Energy Conservation Specifications.** Technological advances in energy conservation devices such as Lighting and Heating, Ventilation, and Air Conditioning (HVAC), enable additional energy savings over that required by the State of California's Energy Efficiency Standards (Title 24, Part 6 of the California Code of Regulations). The Consultant shall model the energy performance of the building using an acceptable computer model such as Energy Pro, EQuest, DOE-2, Power DOE, HAP 3.22, etc. and present the summary data to the City at or prior to 100 percent design. This analysis should include life cycle cost analysis showing recovery of construction costs through operation and maintenance costs (e.g., electricity and gas savings.) The Consultant shall prepare a cost savings matrix that lists each device being considered and one, three, five and ten-year Project savings. The comparison shall include, but not be limited to, the following equipment: Lighting, HVAC, Water Heating, and Motors.

The Consultant shall contact the SDG&E New Construction Program at (858) 636-5725 or the San Diego Regional Energy Office at (619) 595-5634 to integrate them into the design process to ensure maximum energy performance and access to technical resources. Consultant shall endeavor to obtain from SDG&E a UTIL-1 (Utility Incentive Worksheet) to estimate energy savings and incentives available based on the design team energy modeling.

#### **4.15 RESERVED**

**4.16 Sustainable Building Policy.** The Project design and construction shall comply with City Council Green Building Policy 900-14 (Exhibit G). All new or significantly remodeled City facilities shall be designed and constructed to achieve at a minimum the Leadership in Energy and Environmental Design (LEED) "Silver" Level Certification.

**4.17 Design-Build Competition Eligibility.** Any architectural firms, engineering firms, Consultants, or individuals retained by the City to assist the City with developing criteria or preparing the preliminary design or the request for proposals for a Design-Build competition shall not be eligible to participate with any Design-Build Entity in that Design-Build competition. Additionally, the City may determine in its sole discretion that a Subcontractor

hired to assist with a Design-Build competition, regardless of whether the Subcontractor was hired by the City or hired by an architectural firm, engineering firm, Consultant, or individual retained by the City, has a competitive advantage and as such is ineligible to participate in that Design-Build competition.

**4.18 Storm Water Management Discharge Control.** Unless specifically removed from the Scope of Work (Exhibit A), the Consultant shall comply with Section 43.03 of the San Diego Municipal Code, Storm Water Management Discharge Control, and any and all Best Management Practice guidelines and pollution elimination requirements as may be established by the Enforcement Official. Further, the Consultant shall prepare and incorporate into the construction documents a Storm Water Pollution Prevention Plan (SWPPP) to be implemented by the contractor during Project construction. Where applicable, the SWPPP shall comply with both the California Regional Water Quality Control Board Statewide General Construction Storm Water permit and National Pollution Discharge Elimination System permit requirements and any municipal regulations adopted pursuant to the permits.

**4.19 ADA Certification.** The Consultant hereby certifies that it agrees to comply with the City's Americans With Disabilities Act Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference.

## ARTICLE V

### RESERVED

## ARTICLE VI

### INDEMNIFICATION

**6.1 City Indemnity.** The City agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, employees, and subconsultants, against all damages, liabilities or costs including reasonable attorneys' fees and defense costs, arising out of or in any way connected with this Project, excepting only those damages, liabilities, or costs to the extent attributable to the negligence, recklessness, or willful misconduct of the Consultant, its officers, employees and subconsultants.

**6.2 Consultant Indemnity.** To the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782.8), Consultant shall indemnify and hold harmless the City, its officers, or employees, from all claims, demands or liability that to the extent arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, employees and subconsultants working on this Project. This obligation is subject to insurance policy limits as set forth in section 4.3 of this Agreement.

## ARTICLE VII



## MEDIATION

**7.1 Mandatory Non-binding Mediation.** With the exception of Sections 2.5-2.7 of this Agreement, if a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, prior to the initiation of any litigation, the Parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation under the Construction Industry Mediation Rules of the American Arbitration Association (AAA) or any other neutral organization agreed upon before having recourse in a court of law.

**7.2 Mandatory Mediation Costs.** The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator [Mediator], and the cost of any proofs or expert advice produced at the direct request of the Mediator, shall be borne equally by the Parties, unless they agree otherwise.

**7.3 Selection of Mediator.** A single Mediator that is acceptable to both Parties shall be used to mediate the dispute. The Mediator will be knowledgeable in construction aspects and may be selected from lists furnished by the AAA or any other agreed upon Mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party. If the Mediator is selected from a list provided by AAA, the initiating Party shall concurrently file with AAA a "Request for Mediation" along with the appropriate fees, a list of three requested Mediators marked in preference order, and a preference for available dates.

**7.3.1** If AAA is selected to coordinate the mediation, within ten working days from the receipt of the initiating Party's Request for Mediation, the opposing Party shall file the following: a list of preferred Mediators listed in preference order after striking any Mediators to which they have any factual objection, and a preference for available dates. If the opposing Party strikes all of initiating Party's preferred Mediators, opposing Party shall submit a list of three preferred Mediators listed in preference order to initiating Party and Administrator. Initiating Party shall file a list of preferred Mediators listed in preference order, after striking any Mediator to which they have any factual objection. This process shall continue until both sides have agreed upon a Mediator.

**7.3.2** The Administrator will appoint or the Parties shall agree upon the highest, mutually preferred Mediator from the individual Parties' lists who is available to serve within the designated time frame.

**7.3.3** If the Parties agree not to use AAA, then a Mediator, date and place for the mediation shall be mutually agreed upon.

**7.4 Conduct of Mediation Sessions.** Mediation hearings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions will be confidential to the Party's legal position. The Parties may agree to exchange any information they deem necessary.

**7.4.1** Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either

Party may have attorney(s) or expert(s) present. Upon reasonable demand, either Party may request and receive a list of witnesses and notification whether attorney(s) will be present.

**7.4.2** Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

## ARTICLE VIII

### INTELLECTUAL PROPERTY RIGHTS

**8.1 Work For Hire.** All original designs, plans, specifications, reports, documentation, and other informational materials, whether written or readable by machine, originated or prepared exclusively for the City pursuant to this Agreement (Deliverable Materials) is "work for hire" under the United States Copyright law and shall become the sole property of the City and shall be delivered to the City upon request. The Consultant, including its employees, and independent Subcontractor(s), shall not assert any common law or statutory patent, copyright, trademark, or any other intellectual proprietary right to the City to the deliverable Materials.

**8.2. Rights in Data.** All rights (including, but not limited to publication(s), registration of copyright(s), and trademark(s) in the Deliverable Materials, developed by the Consultant, including its employees, agents, talent and independent Subcontractors pursuant to this Agreement are the sole property of the City. The Consultant, including its employees, agents, talent, and independent Subcontractor(s), may not use any such Product mentioned in this article for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

**8.3 Intellectual Property Rights Assignment.** Consultant, its employees, agents, talent, and independent Subcontractor(s) agree to promptly execute and deliver, upon request by City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials; and cooperate and assist in the prosecution of any action or opposition proceeding involving said rights and any adjudication of the same.

**8.4 Moral Rights.** Consultant, its employees, agents, talent, and independent Subcontractor(s) hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Deliverable Materials which Consultant, its employees, agents, talent, and independent Subcontractor(s), may now have or which may accrue to Consultant, its employees, agents, talent, and independent Subcontractor(s)' benefit under U.S. or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now

in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the and the right to object to any modification, translation or use of said content, and any similar rights existing under judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

**8.5 Subcontracting.** In the event that Consultant utilizes a Subcontractor(s) for any portion of the Work that is in whole or in part of the specified Deliverable(s) to the City, the agreement between Consultant and the Subcontractor [Subcontractor Agreement] shall include a statement that identifies that the Deliverable/Work product as a "work-for hire" as defined in the Act and that all intellectual property rights in the Deliverable/Work product, whether arising in copyright, trademark, service mark or other belongs to and shall vest solely with the City. Further, the Subcontractor Agreement shall require that the Subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to the City, all titles, rights and interests in and to said Work/Deliverable, including all copyrights and other intellectual property rights. City shall have the right to review any Subcontractor agreement for compliance with this provision.

**8.6 Publication Design.** Professional may not publish or reproduce any Deliverable Materials, for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

**8.7 Intellectual Property Warranty and Indemnification.** Consultant represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this contract are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Consultant to produce, at Consultant's own expense, new non-infringing materials, deliverables or Works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Consultant further agrees to indemnify and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages of any type alleging or threatening that any materials, deliverables, supplies, equipment, services or Works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claims of Infringement). If a Third Party Claim of Infringement is threatened or made before Consultant receives payment under this contract, City shall be entitled, upon written notice to Consultant, to withhold some or all of such payment.

**8.8 Enforcement Costs.** The Consultant agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in Article 8, including but not limited to, attorney's fees.

## ARTICLE IX

## MISCELLANEOUS

**9.1 Notices.** In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to: Jamal Batta, Project Manager, 600 B Street, Suite 800, San Diego, CA 92101, and notice to the Consultant shall be addressed to: **Harris & Associates, Inc. 750 B Street, Suite 1800, San Diego, CA 92101.**

**9.2 Headings.** All article headings are for convenience only and shall not affect the interpretation of this Agreement.

**9.3 Non-Assignment.** The Consultant shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the City's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the City. In no event shall any putative assignment create a contractual relationship between the City and any putative assignee.

**9.4 Independent Contractors.** The Consultant and any Subcontractors employed by the Consultant shall be independent contractors and not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Consultant concerning the details of performing the Professional Services, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the City concerning the end results of the performance.

**9.5 Consultant and Subcontractor Principals for Professional Services.** It is understood that this Agreement is for unique Professional Services. Retention of the Consultant's Professional Services is based on the particular professional expertise of the following members of the Consultant's organization: Ehab Gerges and Mark Webb [Project Team]. Accordingly, performance of Professional Services on the Project may not be delegated to other members of the Consultant's organization or to Subcontractors without the prior written consent of the City. It is mutually agreed that the members of the Project Team are the principal persons responsible for delivery of all Professional Services and may not be removed from the Project without the City's prior written approval. Removal of any member of the Project Team without notice and approval by the City vide may be considered a default of the terms and conditions of this Agreement by the Consultant. In the event any member of the Project Team becomes unavailable for any reason, the City must be consulted as to any replacement. If the City does not approve of a proposed replacement, the City may terminate this Agreement pursuant to section 2.6 of this Agreement. Further, the City reserves the right, after consultation with the Consultant, to require any of the Consultant's employees or agents to be removed from the Project.

**9.6 Additional Consultants or Contractors.** The City reserves the right to employ, at its own expense, such additional Consultants or contractors as the City deems necessary to perform work or to provide the Professional Services on the Project.

**9.7 Employment of City Staff.** This Agreement may be unilaterally and immediately terminated by the City, at its sole discretion, if the Consultant employs an individual who, within the last twelve months immediately preceding such employment did, in the individual's capacity as an officer or employee of the City, participate in, negotiate with, or otherwise have an influence on the recommendation made to the City Council or Mayor in connection with the selection of the Consultant.

**9.8 Covenants and Conditions.** All provisions of this Agreement expressed as either covenants or conditions on the part of the City or the Consultant, shall be deemed to be both covenants and conditions.

**9.9 Compliance with Controlling Law.** The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720 relating to the payment of prevailing wages during the design and preconstruction phases of a project, including inspection and land surveying work. In addition, the Consultant shall comply immediately with all directives issued by the City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

**9.10 Jurisdiction and Attorney Fees.** The jurisdiction and applicable laws for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in accordance with the laws of the State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney fees in addition to any other award made in such suit or proceeding.

**9.11 Successors in Interest.** This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

**9.12 Integration.** This Agreement and the Exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, amendment, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties. All prior negotiations and agreements are merged into this Agreement.

**9.13 Counterparts.** This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

**9.14 No Waiver.** No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant,

condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.

**9.15 Severability.** The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

**9.16 Municipal Powers.** Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

**9.17 Drafting Ambiguities.** The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

**9.18 Conflicts Between Terms.** If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

**9.19 Consultant Evaluation.** City will evaluate Consultant's performance of Professional Services on the Project using the Consultant Evaluation Form (Exhibit H).

**9.20 Exhibits Incorporated.** All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

**9.21 Survival of Obligations.** All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, shall survive, completion and acceptance of the Professional Services and termination or completion of the Agreement.

**9.22 Vendor Registration.** All consultants wishing to conduct business with the City of San Diego, or those intending to compete for City contracts, must submit a completed Vendor Registration Form (Exhibit I) to the City of San Diego's Purchasing & Contracting Department. This form must be received by the City prior to competing for or being awarded any contracts.

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COPY

DUPLICATE  
ORIGINAL

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to Municipal Code section 22.3212(c) authorizing such execution, and by the Consultant.

Dated this 7<sup>th</sup> day of May, 2008.

THE CITY OF SAN DIEGO  
Mayor or Designee

By: [Signature]  
W. Downs Prior  
Principal Contract Specialist

I HEREBY CERTIFY I can legally bind **Harris & Associates, Inc.** and that I have read all of this Agreement, this 6<sup>th</sup> day of May, 2008.

By: [Signature]  
Javier Saunders  
Regional Office Manager

I HEREBY APPROVE the form and legality of the foregoing Agreement this 7<sup>th</sup> day of May, 2008.

MICHAEL J. AGUIRRE, City Attorney

By: [Signature]  
Thomas C. Zeleny  
Deputy City Attorney

**CONSULTANT LUMP SUM AGREEMENT EXHIBITS**

- Exhibit A - Scope of Services
  - Exhibit B - Compensation and Fee Schedule
  - Exhibit C - Time Schedule
  - Exhibit D - City's Equal Opportunity Contracting Program Consultant Requirements
    - (AA) Work Force Report
    - (BB) Subcontractors List
    - (CC) Contract Activity Report
  - Exhibit E - Consultant Certification for a Drug-Free Workplace
  - Exhibit F - Determination Form
  - Exhibit G - City Council Green Building Policy 900-14
  - Exhibit H - Consultant Evaluation Form
  - Exhibit I - Vendor Registration Form
-



## SCOPE OF SERVICES

### PROJECT UNDERSTANDING

The project is located at 4141 Ruffin Road, which is on the east side of Ruffin Road at the intersection of Sky Park Drive. The site is a portion of Lot 26 of the industrial park unit no. 7 of map 6658. The site has a concrete tilt-up type industrial warehouse of approximately 31,000 SF on approximately 3.1 acres. A 20' foot wide drainage easement starts on the northwest property line and crosses diagonally through the site to the east. The easement contains a 60" storm drain system at the center of the easement. The pipe was constructed in the late 1960's and was 60" RCP in the pad portion and 60" CMP in the slope portion.

Based on our field review and discussions with the property owner, it appears that over the last few years, the existing 60" CMP corroded out, which ultimately led to the significant erosion of the slope. The erosion increased severely for the last two weeks, where it is currently approximately 40 feet deep below the storm drain. Segments of the 60" RCP have also been lost due to the continued erosion.

It is understood that the City has declared the repair of the slope and storm drain to be an emergency project. It is the City's intent is to immediately arrest the current erosion process to protect private property, repair the eroded slope, and replace the existing storm drain system in a manner to mitigate the potential for future erosion and pipe failure.

We recommend a two phase approach for this project. The first phase will be to assist the City to address the immediate threat of additional slope erosion and storm drain system loss. The second phase is to put together construction documents for the permanent repair of the eroded slope and construction of a storm drain system.

It is our understanding that the City will retain CASS Construction Inc. to construct the proposed repairs. Harris will coordinate with CASS during the design and preparation of construction documents.

### CITY RESPONSIBILITIES

The City would assume the following responsibilities:

- Make available and provide all existing data and information relevant to the proposed project.
  - Provide copy of existing street, storm drain, sewer, water, street light, traffic signal, striping plans, etc, if available.
  - Provide topographic survey as needed by Harris
  - Prepare Right of Entry Agreements
  - Advertising and review of the construction bids and construction contract award, including required printing.
  - Management, administration, inspection and materials testing of the construction contract and approval of PS&E.
  - Pay all outside agency permit fees, if any.
-

SCOPE OF SERVICES**1.1 Kickoff & Review Meetings**

Harris & Associates will meet with the City and property owner to present and discuss our progress submittals and discuss the design parameters. We will provide copies of meeting minutes for the City's review within one week after each meeting. We have included eight (8) meetings for this project.

**1.2 Utility Coordination**

Harris & Associates will send out initial utility notifications to affected utility companies or agencies at the project site and request copies of their maps, plans, and/or sketches showing their existing and/or proposed facilities within the project limits. In addition to the written utility notifications, we will contact the utility companies by telephone to ensure that written notifications were received and being acted upon.

Copies of progress submittals will be transmitted to all affected utility companies to notify them of the anticipated project construction schedule and request any utility potholing and/or relocations necessary for the construction of the proposed improvements. As with all of our design projects, we will maintain a utility log to track to whom and when notifications were sent to, and document the responses received. City staff will be copied on all utility correspondence.

**TASK 2.0 PRELIMINARY INVESTIGATION****2.1 Field Survey**

1. As discussed with City staff all topographic survey information will be provided by the City. Our scope of services will be limited to providing the City with a survey request detailing all survey information and limits needed for design. The City will provide all survey needed to prepare the plans Harris & Associates will provide the locations to survey. The City will provide ascii file comma delimited with:

NAD	Point Number	P
83 Coord.	Northerly	N
	Easterly	E
	Description	D
NAVD 29	Elevation or Z	Z

We will also evaluate the survey prepared by RBF and provided by the property owner.

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## **2.2 Project Base Sheets**

Utilizing the topographic field survey provided by the City, construction plan and profile base sheets will be prepared in AutoCAD 2007 version. The base sheet will be in conformance with City's format at a scale of 1"=20' horizontal and appropriate vertical scale.

## **2.3 Drainage Study**

We will prepare a hydrology/hydraulic report for the project area tributary to the storm drain system. The Study will detail the area as well as the improvements that created the system.

## **2.4 Field Review**

The Project Engineer will perform a comprehensive field review of the project area to include the following:

- Catalog photo's taken and take more as required.
- Verify topographic survey base map
- Note existing conditions, grades and above ground utility conflicts that may affect the design

## **2.5 Environmental Document**

Harris has retained Tierra Environmental Inc. to provide assist with the environmental process. It is understood that the City has declared the repair of this storm drain to be an emergency project. Therefore, it is our opinion that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) per Section 15269(b) of the CEQA Guidelines. Therefore, the emergency repairs may be made as quickly as possible. The City, however, will require documentation of the impacts to sensitive lands associated with the failure of the storm drain and slope and the subsequent efforts to replace and repair the storm drain.

Our proposal is based on that the project will require a Process Three Site Development Permit from the City of San Diego for impacts to environmentally sensitive lands. In this case, the project site is "environmentally sensitive" due to the steep slope and native Diegan coastal sage vegetation located at the base of the slope, which is covered with ice plant. The Site Development Permit may be obtained after-the-fact due to the emergency status of the project. Key environmental issues will be the restoration of the topography of the manufactured hillside, erosion control on the restored hillside, and revegetation of the restored hillside with a native Diegan coastal sage scrub seed mix. Tierra will perform the following tasks associated with this project:

- Site visit to photograph and map biological resources that have been impacted by the storm drain failure and/or that will be impacted by the proposed emergency repair;
- Preparation of a Notice of Exemption per CEQA
- Preparation of a biological resources map and letter report documenting project impacts and recommending mitigation in the form of revegetation with a native coastal sage scrub seed mix
- Preparation of Site Development Permit Application

## **2.6 Geotechnical Investigation**

Harris has retained Ninyo and Moore to provide the geotechnical investigation. Their scope of services will be as follows:

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- Reviewing background information including available geotechnical reports, geologic maps, and aerial photographs.
- Performing a site reconnaissance to evaluate and map the geotechnical conditions at the site.
- Obtaining boring permits from the San Diego County Department of Health Services.
- Performing a site visit to mark the boring location and to meet with Underground Service Alert (USA) for utility clearance.
- Drilling, logging and sampling of one exploratory boring up to approximately 60 feet in depth or refusal. Soil samples will be collected from the boring and transported to our in-house geotechnical laboratory for analysis.
- Performing geotechnical laboratory testing on selected samples to evaluate soil parameters for design purposes. This testing may include, but is not limited to, in-situ dry density and moisture content, soil classification, grain size, Atterberg limits, shear strength, soil corrosivity (pH, resistivity, chloride content, and sulfate content), and R-value.
- Performing engineering analysis of data.
- Preparing a geotechnical evaluation report for the design of project. The report will include our findings, conclusions and recommendations relative to slope stability, site preparation and earthwork, excavatability, suitability of onsite materials for reuse as backfill, and pavements.

#### **TASK 3.0      PRELIMINARY DESIGN (30% SUBMITTAL)**

Prepare a preliminary design of the proposed improvements to include:

- Size of storm drain pipe and limits of needed improvements
- Proposed outlet structure and energy dissipator including calculations
- Temporary slope protection to address immediate threat of further slope erosion
- Landscaping and Irrigation Repair
- Permanent slope repair and grading
- Pertinent details
- Cost estimates
- Utility impacts (relocations, adjustments, and/or modifications)
- A list of items requiring City feedback, along with Harris' associated recommendations

#### **TASK 4.0      CONSTRUCTION DOCUMENTS**

##### **4.1      Preliminary Construction Plans (90% Submittal)**

Preliminary plans will incorporate comments from the 30% submittal. Proposed construction materials and method will be shown on the plans along with appropriate construction notes and dimensions to describe the proposed improvements. The preliminary design submittal will include the following sheets:

Description	Scale	Number of Sheets
Title Sheet	N/A	1
Details Sheet	N/A	2
Storm Drain Plan and Profile	1"=20'	1
Slope Repair/Grading Plan	1"=20'	1
Landscaping and Irrigation Plans	1"=20'	2
Erosion Control	1"=20'	1
<b>Total Estimated Sheet Count</b>		<b>8</b>

#### 4.2 Specifications

Specifications will be prepared in the City's format using a digital sample provided by the City. The specifications will be submitted to the City for review.

#### 4.3 Final PS&E

Incorporating the comments from City's review of the preliminary PS&E, Harris & Associates will prepare final plans, special provisions, and a construction cost estimate. The approved plans specifications and estimate will be provided to the City on CD Rom as well as wet-stamped 24" x 36" (D-size) mylars.

#### 4.3 Prepare Storm Water Pollution Prevention Plan (SWPPP)

Based on our review of Section 43.03 of the San Diego Municipal Code, Storm Water Management Discharge Control, and our discussion with City staff, It is our understanding that only a Storm Water Pollution Prevention Plan (SWPPP) will be required to comply with said section. Harris has retained D-MAX Engineering, Inc. to prepare and incorporate into the construction documents a SWPPP to be implemented by the contractor during project construction.

#### Task 5.0 Assistance During Construction

Harris will remain available during construction process to assist the City with answering RFI's, attend pre-construction meeting and help City staff as needed. We will also prepare as-built drawings utilizing redlines provided by the City.

**COMPENSATION AND FEE SCHEDULE****RANGE OF HOURLY RATES:  
ALL EMPLOYEES****Effective January 1 - December 31, 2008****ENGINEERING DESIGN AND  
MUNICIPAL SERVICES GROUPS****HOURLY RATE**

Project Directors	\$190-290
Project Managers	150-270
Project Engineers	125-250
Technical Support	75-150
Administration	65-130

**CONSTRUCTION / PROGRAM MANAGEMENT****HOURLY RATE**

Project Directors	\$190-290
Project Managers	150-270
Construction Managers	125-220
Resident Engineers	150-220
Construction Engineers	110-220
Scheduling Engineers	110-190
Cost Engineers	110-220
Inspectors #	100-220
Technicians	90-160
Administration	65-130

\*Notes: Rates are subject to adjustment due to promotions during the effective period of this schedule. A new rate schedule will become effective January 1, 2009. Unless otherwise indicated in the cost proposal, hourly rates include most direct costs such as travel, equipment, computers, communications and reproduction (except large quantities such as construction documents for bidding purposes).

# Inspectors working in the State of California are subject to the Prevailing Wage Rates established for that area.

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000413

## Fee Proposal

Task/Subtask	PD	PM	PE	DE	TECH	Environ. Doc	Lands cape Arch	Geotech	SWPP SP	Subtotals
	\$220	\$180	\$165	\$125	\$95	Tierra	GFH	N&M	D-Max	
<b>Task 1.0 Project Management</b>										
1.1 Progress & Review Meetings	24	40								\$12,480
1.2 Utility Coordination		4	16		16					\$4,880
Subtotal Hours =	24	44	16	0	16					100
Subtotal (\$) =	\$5,280	\$7,920	\$2,640	\$0	\$1,520	\$0	\$0	\$0		\$17,360
<b>Task 2.0 Preliminary Investigations</b>										
2.1 Field Survey		4	12	16						\$4,700
2.2 Project Base Sheets		4	8		32					\$5,080
2.3 Drainage Study		40	60		40					\$20,900
2.4 Field Review	4	12	40							\$9,640
2.5 Environmental Document	4	16				\$15,994				\$19,754
2.6 Geotechnical Investigations	8	20						\$23,100		\$28,460
Subtotal Hours =	16	96	120	16	72					320
Subtotal (\$) =	\$3,520	\$17,280	\$19,800	\$2,000	\$6,840	\$15,994	\$0	\$23,100		\$88,534
<b>Task 3.0 Preliminary Design</b>										
	16	40	60	80						\$30,620
Subtotal Hours =	16	40	60	80	0					196
Subtotal (\$) =	\$3,520	\$7,200	\$9,900	\$10,000	\$0	\$0	\$0	\$0		\$30,620
<b>Task 4.0 Construction Documents</b>										
4.1 Preliminary Construction Plans	16	50	60	80	40		\$14,000			\$50,220
4.2 Specifications		8	24		12					\$6,540
4.3 SWPPP		2	4						\$11,000	\$1,020
Subtotal Hours =	16	60	88	80	52					296
Subtotal (\$) =	\$3,520	\$10,800	\$14,520	\$10,000	\$4,940	\$0	\$14,000	\$0	\$11,000	\$68,780
<b>Task 5.0 Final PS&amp;E</b>										
6.1 Final Submittal	8	24	40	40	40					\$21,480
Subtotal Hours =	8	24	40	40	40					152
Subtotal (\$) =	\$1,760	\$4,320	\$6,600	\$5,000	\$3,800	\$0	\$0	\$0		\$21,480
<b>Task 6.0 Assist During Construction &amp; As-Built Preparation</b>										
	16	32	50		24					\$19,810
Subtotal Hours =	16	32	50	0	24					122
Subtotal (\$) =	\$3,520	\$5,760	\$8,250	\$0	\$2,280	\$0	\$0	\$0		\$19,810
Total Hours by Classification =	96	296	374	216	204					1,186
Total (\$) by Classification =	\$21,120	\$53,280	\$61,710	\$27,000	\$19,380	\$15,994	\$14,000	\$23,100	\$11,000	
Percentage of Time Allocated (by hours) =	8%	25%	32%	18%	17%					\$246,584

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**EXHIBIT C**  
**TIME SCHEDULE**

This an Emergency Project, and Harris will work with the City to complete the project design and construction by  
October 2008.

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## EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP) CONTRACTOR REQUIREMENTS

### TABLE OF CONTENTS

I.	City's Equal Opportunity Commitment.....	1
II.	Nondiscrimination in Contracting Ordinance.....	1
III.	Equal Employment Opportunity.....	2
IV.	Equal Opportunity Contracting.....	4
V.	Demonstrated Commitment to Equal Opportunity.....	5
VI.	List of Subcontractors.....	6
VII.	Definitions.....	6
VIII.	Certification.....	7
IX.	List of Attachments.....	7

- I. City's Equal Opportunity Commitment.** The City of San Diego (City) is strongly committed to equal opportunity for employees and Subcontractors of professional service consultants doing business with the City. The City encourages its consultants to share this commitment. Prime consultants are encouraged to take positive steps to diversify and expand their Subcontractor solicitation base and to offer consulting opportunities to all eligible Subcontractors.
- II. Nondiscrimination in Contracting Ordinance.** All consultants and professional service providers doing business with the City, and their Subcontractors, must comply with requirements of the City's *Nondiscrimination in Contracting Ordinance*, San Diego Municipal Code Sections 22.3501 through 22.3517.
- A. Proposal Documents to include Disclosure of Discrimination Complaints. As part of its bid or proposal, Proposer shall provide to the City a list of all instances within the past ten (10) years where a complaint was filed or pending against Proposer in a legal or administrative proceeding alleging that Proposer discriminated against its employees, Subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
- B. Contract Language. The following language shall be included in contracts for City projects between the consultant and any Subcontractors, vendors, and suppliers:

Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Consultant shall provide equal opportunity for Subcontractors to participate in subconsulting opportunities. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

- C. Compliance Investigations. Upon the City's request, Consultant agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that Consultant has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Consultant for each subcontract or supply contract. Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's *Nondiscrimination in Contracting Ordinance*, Municipal Code Sections 22.3501 through 22.3517. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment and other sanctions for violation of the provisions of the *Nondiscrimination in Contracting Ordinance*. Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination in Contracting Ordinance* apply only to violations of the *Ordinance*.

**III. Equal Employment Opportunity.** Consultants shall comply with requirements of San Diego Ordinance No. 18173, Section 22.2701 through 22.2707, Equal Employment Opportunity Outreach Program. Consultants shall submit a *Work Force Report* or an *Equal Employment Opportunity (EEO) Plan* to the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP) for approval.

- A. Work Force Report. If a *Work Force Report* (Attachment AA) is submitted, and an EOCP staff Work Force Analysis determines there are under representation when compared to County Labor Force Availability data, Consultant will be required to submit an *Equal Employment Opportunity Plan*.
- B. Equal Employment Opportunity Plan. If an *Equal Employment Opportunity Plan* is submitted, it must include at least the following assurances that:

1. The Consultant will maintain a working environment free of discrimination, harassment, intimidation and coercion at all sites and in all facilities at which the Consultant's employees are assigned to work;
2. A responsible official is designated to monitor all employment related activity to ensure the Consultant's EEO Policy is being carried out and to submit reports relating to EEO provisions;
3. Consultant disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents every dissemination review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings;
4. The Consultant reviews, at least annually, all supervisor's adherence to and performance under the EEO Policy and maintains written documentation of these reviews;
5. The Consultant discusses its EEO Policy Statement with Subcontractors with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request;
6. The Consultant documents and maintains a record of all bid solicitations and outreach efforts to and from Subcontractors, consultant associations and other business associations;
7. The Consultant disseminates its EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit, maintains files documenting these efforts, and provides copies of these advertisements to the City upon request;
8. The Consultant disseminates its EEO Policy to union and community organizations;
9. The Consultant provides immediate written notification to the City when any union referral process has impeded the Consultant's efforts to maintain its EEO Policy;
10. The Consultant maintains a current list of recruitment sources, including those outreaching to people of color and women, and provides written notification of employment opportunities to these recruitment sources with a record of the organizations' responses;

11. The Consultant maintains a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken;
12. The Consultant encourages all present employees, including people of color and women employees, to recruit others;
13. The Consultant maintains all employment selection process information with records of all tests and other selection criteria;
14. The Consultant develops and maintains documentation for on-the-job training opportunities and/or participates in training programs for all of its employees, including people of color and women, and establishes apprenticeship, trainee, and upgrade programs relevant to the Consultant's employment needs;
15. The Consultant conducts, at least annually, an inventory and evaluation of all employees for promotional opportunities and encourages all employees to seek and prepare appropriately for such opportunities;
16. The Consultant ensures the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes;
17. The Consultant establishes and documents policies and procedures to ensure job classifications, work assignments, promotional tests, recruitment and other personnel practices do not have a discriminatory effect; and
18. The Consultant is encouraged to participate in voluntary associations, which assist in fulfilling one or more of its non-discrimination obligations. The efforts of a consultant association, consultant/community professional association, foundation or other similar group of which the Consultant is a member will be considered as being part of fulfilling these obligations, provided the Consultant actively participates.

IV. **Equal Opportunity Contracting.** Prime consultants are encouraged to take positive steps to diversify and expand their Subcontractor solicitation base and to offer contracting opportunities to all eligible Subcontractor. To support its Equal

Opportunity Contracting commitment, the City has established a voluntary *Subcontractor participation level*.

A. Subcontractor Participation Level

1. Projects valued at \$25,000 or more have a voluntary Subcontractor Participation Level goal of 15%. Goals are achieved by contracting with any combination of Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE) or Other Business Enterprise (OBE) level.
2. While attainment of the 15% Subcontractor Participation Level goal is strictly voluntary, the City encourages diversity in your outreach and selection efforts. Historical data indicates that of the overall 15% goal, 25% to 30% Disadvantaged Business Enterprise (DBE) and 1% to 3% Disabled Veteran Business Enterprise (DVBE) participation is attainable. The remaining percentages may be allocated to Other Business Enterprises (OBE). Participation levels may be used as a tiebreaker in cases of an overall tie between two or more firms.

B. Contract Activity Reports. To permit monitoring of the successful Consultant's commitment to achieving compliance, *Contract Activity Reports* (Attachment CC) reflecting work performed by Subcontractors shall be submitted quarterly for any work covered under an executed contract.

V. **Demonstrated Commitment to Equal Opportunity.** The City seeks to foster a business climate of inclusion and to eliminate barriers to inclusion.

A. Proposers are required to submit the following information with their proposals:

1. Outreach Efforts. Description of Proposer's outreach efforts undertaken on this project to make subconsulting opportunities available to all interested and qualified firms.
2. Past Participation Levels. Listing of Proposer's Subcontractor participation levels achieved on all private and public projects within the past three (3) years. Include name of project, type of project, value of project, Subcontractor firm's name, percentage of Subcontractor firm's participation, and identification of Subcontractor firm's ownership as a certified Small Business, Disadvantaged Business Enterprise, Disabled Veteran Business Enterprise, or Other Business Enterprise.

3. Equal Opportunity Employment. Listing of Proposer's strategies to recruit, hire, train and promote a diverse workforce. These efforts will be considered in conjunction with Proposer's *Workforce Report* as compared to the County's Labor Force Availability.
4. Community Activities. Listing of Proposer's current community activities such as membership and participation in local organizations, associations, scholarship programs, mentoring, apprenticeships, internships, community projects, charitable contributions and similar endeavors.

B. Consultant selection panels will consider and evaluate the Proposer's demonstrated commitment to equal opportunity including the following factors:

1. Outreach Efforts. Proposer's outreach efforts undertaken and willingness to make meaningful subconsulting opportunities available to all interested and qualified firms on this project.
2. Past Participation Levels. Proposer's Subcontractor participation levels achieved on all private and public projects within the past three (3) years.
3. Equal Opportunity Employment. Proposer's use of productive strategies to successfully attain a diverse workforce as compared to the County's Labor Force Availability.
4. Community Activities. Proposer's current community activities.

VI. **List of Subcontractors.** Consultants are required to submit a *Subcontractor List* with their proposal.

A. Subcontractors List. The *Subcontractor List* (Attachment BB) shall indicate the Name and Address, Scope of Work, Percent of Total Proposed Contract Amount, Dollar Amount of Proposed Subcontract, Certification Status and Where Certified for each proposed Subcontractor.

1. Subcontractors must be named on the *Subcontractors List* if they receive more than one-half of one percent (0.5%) of the Prime Consultant's fee.

B. Commitment Letters. Proposer shall also submit Subcontractor *Commitment Letters* on Subcontractor's letterhead, no more than one page each, from all proposed Subcontractors to acknowledge their commitment to the team, scope of work, and percent of participation in the project.

- VII. Definitions.** Certified **"Minority Business Enterprise" (MBE)** means a business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

Certified **"Women Business Enterprise" (WBE)** means a business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

Certified **"Disadvantaged Business Enterprise" (DBE)** means a business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

Certified **"Disabled Veteran Business Enterprise" (DVBE)** means a business which is at least fifty-one percent (51%) owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(ies).

**"Other Business Enterprise" (OBE)** means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

#### **VIII. Certification.**

A. The City of San Diego is a signatory to a Memorandum of Understanding (MOU) with the California Department of Transportation (CALTRANS), and therefore has adopted a policy regarding certification of MBE/WBE/DBE/DVBE firms. As a result of the MOU, an MBE, WBE or DBE is certified as such by any of the following methods:

1. Current certification by the City of San Diego as MBE, WBE, or DBE;
2. Current certification by the State of California Department of Transportation (CALTRANS) as MBE, WBE or DBE;
3. Current MBE, WBE or DBE certification from any participating agency in the statewide certified pool of firms known as CALCERT.

000422

- B. DVBE certification is received from the State of California's Department of General Services, Office of Small and Minority Business (916) 322-5060.

**IX. List of Attachments.**

- AA - *Work Force Report*  
BB - *Subcontractors List*  
CC - *Contract Activity Report*





City of San Diego.

ATTACHMENT AA

**EQUAL OPPORTUNITY CONTRACTING (EOC)**

1010 Second Avenue • Suite 500 • San Diego, CA 92101

Phone: (619) 533-4464 • Fax: (619) 533-4474

**WORK FORCE REPORT**

000423

**ADMINISTRATIVE**

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

**CONTRACTOR IDENTIFICATION**

Type of Contractor: ☐ Construction ☐ Vendor/Supplier ☐ Financial Institution ☐ Lessee/Lessor  
☒ Consultant ☐ Grant Recipient ☐ Insurance Company ☐ Other

Name of Company: Harris & Associates

AKA/DBA: \_\_\_\_\_

Address (Corporate Headquarters, where applicable): 120 Mason Circle

City Concord County Contra Costa State California Zip 94520

Telephone Number: (925) 827-4900 FAX Number: (925) 827-4982

Name of Company CEO: L. Carl Harris, PE

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 750 B Street, Suite 1800

City San Diego County San Diego State California Zip 92101

Telephone Number: (619) 236-1778 FAX Number: (619) 236-1179

Type of Business: Civil Engineering Firm Type of License: N/A

The Company has appointed: Marie Shocklev

as its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate, and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 120 Mason Circle, Concord California 94520

Telephone Number: (925) 827-4900 FAX Number: (925) 827-4982

- ☐ One San Diego County (or Most Local County) Work Force - Mandatory
- ☒ Branch Work Force \*
- ☐ Managing Office Work Force

*Check the box above that applies to this WFR*

*\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of Harris & Associates

(Firm Name)

San Diego, California hereby certify that information provided

(County)

(State)

herein is true and correct. This document was executed on this 22nd day of April 2008

Javier Saunders, PE

(Authorized Signature)

(Print Authorized Signature)

NAME OF FIRM: Harris & Associates DATE: April 22, 2008

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- 000424
- |  |  |
|--|--|
| (1) Black, African-American                          | (5) Filipino                                       |
| (2) Hispanic, Latino, Mexican-American, Puerto Rican | (6) White, Caucasian                               |
| (3) Asian, Pacific Islander                          | (7) Other ethnicity; not falling into other groups |
| (4) American Indian, Eskimo                          |  |

OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial														
Professional														
A&E, Science, Computer			2		1						10			
Technical			1		3						6			
Sales														
Administrative Support				1		1						2		
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

\*Construction laborers and other field employees are not to be included on this page

Totals Each Column	0	0	3	1	4	1	0	0	0	0	16	2	0	0
--------------------	---	---	---	---	---	---	---	---	---	---	----	---	---	---

Grand Total All Employees

27

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled

Disabled	0	0	0	0	0	0	0	0	0	0	0	0	0	0
----------	---	---	---	---	---	---	---	---	---	---	---	---	---	---

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														



## CITY OF SAN DIEGO WORK FORCE REPORT – ADMINISTRATIVE

### HISTORY

The Work Force Report (WFR) is the document that allows the City of San Diego to analyze the work forces of all firms wishing to do business with the City. We are able to compare the firm's work force data to County Labor Force Availability (CLFA) data derived from the United States Census. CLFA data is a compilation of lists of occupations and includes the percentage of each ethnicity we track (Black, Hispanic, Asian, American Indian, Filipino) for each occupation. Currently, our CLFA data is taken from the 2000 Census. In order to compare one firm to another, it is important that the data we receive from the consultant firm is accurate and organized in the manner that allows for this fair comparison.

### WORK FORCE & BRANCH WORK FORCE REPORTS

When submitting a WFR, especially if the WFR is for a specific project or activity, we would like to have information about the firm's work force that is actually participating in the project or activity. That is, if the project is in San Diego and the work force is from San Diego, we want a San Diego County Work Force Report.<sup>1</sup> By the same token, if the project is in San Diego, but the work force is from another county, such as Orange or Riverside County, we want a Work Force Report from that county.<sup>2</sup> For example, if participation in a San Diego project is by work forces from San Diego County, Los Angeles County and Sacramento County, we will ask for separate Work Force Reports representing the work forces of

your firm from each of the three counties.<sup>1,2</sup> On the other hand, if the project will be accomplished completely outside of San Diego, we ask for a Work Force Report from the county or counties where the work will be accomplished.<sup>2</sup>

### MANAGING OFFICE WORK FORCE

Equal Opportunity Contracting may occasionally ask for a Managing Office Work Force (MOWF) Report. This may occur in an instance where the firm involved is a large national or international firm but the San Diego or other local work force is very small. In this case, we may ask for both a local and a MOWF Report.<sup>1,3</sup> In another case, when work is done only by the Managing Office, only the MOWF Report may be necessary.<sup>3</sup>

### TYPES OF WORK FORCE REPORTS:

Please note, throughout the preceding text of this page, the superscript numbers one<sup>1</sup>, two<sup>2</sup> & three<sup>3</sup>. These numbers coincide with the types of work force report required in the example. See below:

- <sup>1</sup> One San Diego County (or Most Local County) Work Force – Mandatory in most cases
- <sup>2</sup> Branch Work Force \*
- <sup>3</sup> Managing Office Work Force

*\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county*

### **Exhibit: Work Force Report Job categories**

Refer to this table when completing your firm's Work Force Report form(s).

#### **Management & Financial**

Advertising, Marketing, Promotions, Public Relations, and Sales Managers
Business Operations Specialists
Financial Specialists
Operations Specialties Managers
Other Management Occupations
Top Executives

#### **Professional**

Art and Design Workers
Counselors, Social Workers, and Other Community and Social Service Specialists
Entertainers and Performers, Sports and Related Workers
Health Diagnosing and Treating Practitioners
Lawyers, Judges, and Related Workers
Librarians, Curators, and Archivists
Life Scientists

Media and Communication Workers
Other Teachers and Instructors
Postsecondary Teachers
Primary, Secondary, and Special Education School Teachers
Religious Workers
Social Scientists and Related Workers

**Architecture & Engineering, Science, Computer**

Architects, Surveyors, and Cartographers
Computer Specialists
Engineers
Mathematical Science Occupations
Physical Scientists

**Technical**

Drafters, Engineering, and Mapping Technicians
Health Technologists and Technicians
Life, Physical, and Social Science Technicians
Media and Communication Equipment Workers

**Sales**

Other Sales and Related Workers
Retail Sales Workers
Sales Representatives, Services
Sales Representatives, Wholesale and Manufacturing
Supervisors, Sales Workers

**Administrative Support**

Financial Clerks
Information and Record Clerks
Legal Support Workers
Material Recording, Scheduling, Dispatching, and Distributing Workers
Other Education, Training, and Library Occupations
Other Office and Administrative Support Workers
Secretaries and Administrative Assistants
Supervisors, Office and Administrative Support Workers

**Services**

Building Cleaning and Pest Control Workers
Cooks and Food Preparation Workers
Entertainment Attendants and Related Workers
Fire Fighting and Prevention Workers
First-Line Supervisors/Managers, Protective Service Workers
Food and Beverage Serving Workers
Funeral Service Workers
Law Enforcement Workers
Nursing, Psychiatric, and Home Health Aides
Occupational and Physical Therapist Assistants and Aides
Other Food Preparation and Serving Related Workers
Other Healthcare Support Occupations

Other Personal Care and Service Workers
Other Protective Service Workers
Personal Appearance Workers
Supervisors, Food Preparation and Serving Workers
Supervisors, Personal Care and Service Workers
Transportation, Tourism, and Lodging Attendants

**Crafts**

Construction Trades Workers
Electrical and Electronic Equipment Mechanics, Installers, and Repairers
Extraction Workers
Material Moving Workers
Other Construction and Related Workers
Other Installation, Maintenance, and Repair Occupations
Plant and System Operators
Supervisors of Installation, Maintenance, and Repair Workers
Supervisors, Construction and Extraction Workers
Vehicle and Mobile Equipment Mechanics, Installers, and Repairers
Woodworkers

**Operative Workers**

Assemblers and Fabricators
Communications Equipment Operators
Food Processing Workers
Metal Workers and Plastic Workers
Motor Vehicle Operators
Other Production Occupations
Printing Workers
Supervisors, Production Workers
Textile, Apparel, and Furnishings Workers

**Transportation**

Air Transportation Workers
Other Transportation Workers
Rail Transportation Workers
Supervisors, Transportation and Material Moving Workers
Water Transportation Workers

**Laborers**

Agricultural Workers
Animal Care and Service Workers
Fishing and Hunting Workers
Forest, Conservation, and Logging Workers
Grounds Maintenance Workers
Helpers, Construction Trades
Supervisors, Building and Grounds Cleaning and Maintenance Workers
Supervisors, Farming, Fishing, and Forestry Workers

## SUBCONTRACTORS LIST

## INFORMATION REGARDING SUBCONTRACTORS PARTICIPATION:

1. Subcontractor's List shall include name and complete address of all Subcontractors who will receive more than one half of one percent (0.5%) of the Prime Consultant's fee.
2. Proposer shall also submit Subcontractor commitment letters on Subcontractor's letterhead, no more than one page each, from Subcontractors listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.
3. Subcontractors shall be used for scope of work listed. No changes to this Subcontractors List will be allowed without prior written City approval.

NAME AND ADDRESS SUBCONTRACTORS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/ DBE/DVBE/ OBE	**WHERE CERTIFIED
Tierra Environmental Services 9915 Business Park Ave. #C San Diego CA 92131- 1120	Environment Document	5.90%	\$14,540	MBE	Caltrans
Ninyo & Moore 5710 Ruffin Rd San Diego, CA 92123- 1013	Geotechnical	8.52%	\$21,000	MBE	
Gary F. Hoyt Landscape Architectures Inc. 13625 Adrain St Poway, CA 92064	Landscape Architecture	5.16%	\$12,727		
D-Max Engineering Inc. 7220 Trade St. #119 San Diego, CA 92121	Water Quality	4.06%	\$10,000		

\*For information only. As appropriate, Proposer shall identify Subcontractors as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

\*\*For information only. As appropriate, Proposer shall indicate if Subcontractor is certified by:

City of San Diego	CITY
State of California Department of Transportation	CALTRANS

## CONTRACT ACTIVITY REPORT

Consultants are required by contract to report subcontractor activity in this format. Reports shall be submitted via the Project Manager to the *Equal Opportunity Contracting Program* (EOCP) no later than thirty (30) days after the close of each quarter.

**PROJECT:** 4141 RUFFIN ROAD STORM DRAIN EMERGENCY PROJECT **PRIME CONTRACTOR:** HARRIS & ASSOCIATES  
**CONTRACT AMOUNT:** \$246,584 **INVOICE PERIOD:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
 Include Additional Services Not-To-Exceed Amount

Subcontractor	Indicate MBE, WBE, DBE, DVBE or OBE	Current Period		Paid to Date		Original Commitment	
		Dollar Amount	% of Contract	Dollar Amount	% of Contract	Dollar Amount	% of Contract
Tierra Environmental Services 9915 Business Park Ave. #C San Diego CA 92131-1120	MBE						
Ninyo & Moore 5710 Ruffin Rd San Diego, CA 92123-1013	MBE						
Gary F. Hoyt Landscape Architectures Inc. 13625 Adrain St Poway, CA 92064							
D-Max Engineering Inc. 7220 Trade St. #119 San Diego, CA 92121							
Prime Contractor Total:							
Contract Total:							

Completed by \_\_\_\_\_



# TIERRA

ENVIRONMENTAL SERVICES

April 22, 2008

Mr. Mark Webb, P.E.  
Harris & Associates  
750 B Street, Suite 1800  
San Diego, CA 92101

Subject: Commitment to Provide Environmental Services for Progressive Kearny  
Mesa - 4141 Ruffin Road Storm Drain Repair

Dear Mr. Webb:

TIERRA Environmental Services (TIERRA) is committed to assisting the Harris & Associates team by providing an environmental evaluation of the failure of a 60-inch diameter storm drain, and the subsequent repair of this facility, on an east-facing slope below the parking lot of the Progressive Kearny Mesa building located at 4141 Ruffin Road, Kearny Mesa, in the City of San Diego. A TIERRA biologist will map and quantify the vegetation communities impacted by the pipe failure and repair and will recommend revegetation of the slope following completion of the repair. The project is exempt from CEQA review as an emergency repair. A TIERRA environmental planner will prepare the necessary documentation for a post-repair Site Development Permit from the City of San Diego to make sure that all repairs conform to the City's Environmentally Sensitive Lands Ordinance.

TIERRA is recognized as a Small Minority Business Enterprise (SMBE) by Caltrans and is pleased to be included on the Harris & Associates team for this project. Please call me at (858) 578-9064 if you have any questions.

Sincerely,

Michael L. Page, AICP  
Principal Environmental Planner

# BUSINESS ENTERPRISE CERTIFICATE

## TIERRA ENVIRONMENTAL SERVICES, INC.

9915 BUSINESS PARK AVENUE, SUITE C  
SAN DIEGO, CA 92131

Owner : MICHAEL BAKSH

Business Structure : CORPORATION

Programs : STATE MINORITY BUSINESS ENTERPRISE


This certificate acknowledges that said firm is approved by the California Department of Transportation as a State Minority Business Enterprise or State Women Business Enterprise (or in some cases both) in accordance with Assembly Bill Number 486, Chapter 1329 and the California Public Code, Chapter 2.5 (commencing with Section 2050), for the following NAICS codes:

- \* 541618 Other Management Consulting Services
- 924110 Administration of Air and Water Resource and Solid Waste Management Programs

\* Indicates primary NAICS code

**CERTIFYING AGENCY:**  
DEPARTMENT OF TRANSPORTATION  
1823 14TH STREET, MS 79  
SACRAMENTO, CA 95814 0000  
(916) 324-1700

Firm Number : 22293  
Renewal Date : June 1, 2008

  
RITA A. NELSON, CERTIFYING AGENCY REPRESENTATIVE May 3, 2006

000430



000431



April 22, 2008  
Project No. 106360001

Mr. Mark Webb  
Harris & Associates  
750 B Street, Suite 1800  
San Diego, California 92101

Subject: 60-Inch Storm Drain and Slope Repair  
4141 Ruffin Road  
San Diego, California

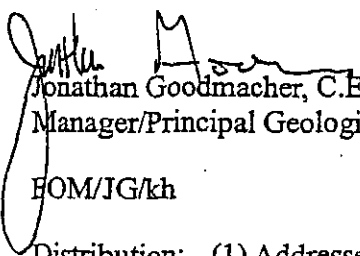
Dear Mr. Webb:

Ninyo & Moore is pleased to join Harris & Associates in its submittal of qualifications for the above-referenced project. Please accept this letter as written confirmation of our intent to subcontract with Harris & Associates to provide geotechnical consulting services.

Ninyo & Moore is fully committed to satisfying the subcontract scope of work. We will provide all necessary resources to successfully complete those tasks assigned to us.

Thank you for including us in your submittal team.

Sincerely,  
**NINYO & MOORE**

  
Jonathan Goodmacher, C.E.G. 2136  
Manager/Principal Geologist

EOM/JG/kh

Distribution: (1) Addressee

000432

**CITY OF SAN DIEGO QUALIFIED MBE ACKNOWLEDGEMENT**

Ninyo & Moore graduated from the Caltrans SMBE program in June 2003. We are unable to obtain MBE status through this agency due to the size/dollar standard that they place on firms in order to be certified for minority business status. However, Ninyo & Moore is a private firm owned by a Hispanic male which does qualify us as a Minority-Owned Business Enterprise. This is demonstrated through the MBE certifications which we hold, and continues to qualify us with the City of Los Angeles and the County of Los Angeles, as well as other agencies such as the CPUC and Amtrak.

In February 2008, Ninyo & Moore was told by the City of San Diego's EOC Officer, Jose Romo, that if an explanation was provided to the City of San Diego along with the City of Los Angeles and/or County of Los Angeles MBE certifications, Ninyo & Moore's MBE status would be accommodated for City of San Diego contracts, due to the changes in the Caltrans MBE requirements which made it difficult for MBE firms to become certified.

Firms wishing to use Ninyo & Moore as a qualified MBE must include this letter along with the City and County of Los Angeles MBE certifications, which are attached for your use.

***Ninyo & Moore***

000433



**COUNTY OF LOS ANGELES  
OFFICE OF AFFIRMATIVE ACTION COMPLIANCE**

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 780  
Los Angeles, California 90012  
(213) 974-0912 / FAX (213) 626-7034  
TDD (213) 974-0911

**MEMBERS OF THE BOARD**

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YVONNE BRATHWAITE BURKE  
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DENNIS A. TAFOYA  
Director

July 11, 2007

Mr. Avram Ninyo, Principal  
Ninyo & Moore  
475 Goddard, Suite 200  
Irvine, CA 92618

Address all correspondence to:  
**CONTRACT COMPLIANCE**  
1000 S. Fremont Avenue  
Building A-9 East 1<sup>st</sup> Floor  
Mail Unit: #24  
Alhambra, CA 91803-8862

**CBE Program I.D.#:** 50198

**Status:** MBE

Dear Mr. Ninyo:

Congratulations! Your firm has been recertified as an eligible participant in the County of Los Angeles Community Business Enterprise (CBE) Program. This recertification is valid until July 11, 2009.

The County of Los Angeles Office of Affirmative Action reserves the right to request additional information and/or conduct an on-site visit at any time during the certification process to verify any documentation submitted by the applicant. If there are any changes in ownership or control of the firm during this certification period, you are required to notify this office immediately.

You should also register your business with the County's Vendor Registration website (WebVen) at <http://camisvr.co.la.ca.us/webven> to participate in the County's online access to County open bids, be placed on bid lists generated by County departments looking for prospective vendors and periodically be notified automatically by email of County bids by specific commodities/services.

Again, congratulations on your recertification. If you have any questions, please call (877) 669-CBES and refer to the identification number above.

Sincerely,

DENNIS A. TAFOYA  
Director

A handwritten signature in black ink, reading "Ozie L. Smith".

Ozie L. Smith  
Senior Deputy Compliance Officer

DAT:OLS

000434

BOARD OF PUBLIC WORKS  
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CALIFORNIAANTONIO R. VILLARAIGOSA  
MayorJOHN L. REAMER, JR.  
Inspector of Public Works  
and  
DirectorBureau of  
CONTRACT ADMINISTRATION  
1149 South Broadway, Suite 300  
Los Angeles, CA 90015(213) 847-1922  
<http://bca.lacity.org>

RECEIVED

Mr. Avram Ninyo  
Ninyo & Moore  
475 Goddard, Suite 200  
Irvine, CA 92618APR 08 2008  
NINYO & MOORE  
ORANGE COUNTY OFFICEApril 3, 2008  
File No. - 964  
Ethnicity - Hispanic American  
Phone No. - (949) 753-7070**RE: MINORITY BUSINESS ENTERPRISE (MBE) RECERTIFICATION APPROVAL**

Dear Mr. Ninyo:

Based on a thorough review of the submitted documents and pursuant to the provisions of the Department of Transportation (U.S.D.O.T.) Rules and Regulations 49 CFR, Part 26, we are pleased to inform you that your firm has been recertified as a **Minority Business Enterprise (MBE)** and has been placed in the City of Los Angeles DBE/MBE/WBE directory as a firm specializing in:

**NAICS Codes**

541330

541380

541620

562910

**Description**

Engineering Services

Testing Laboratories

Environmental Consulting Services

Remediation Services

You may review your firm's information in the City of Los Angeles DBE/MBE/WBE database at <http://bca.lacity.org>.

This certification is valid for five (5) years from the date of this letter. If after five (5) years you wish to be certified by the City of Los Angeles and have not received recertification documents, please contact this office. If there are any changes in ownership, control, or work category of your firm during the certification period, you are required to notify this office of those changes in writing. Also, please include your file number on each page of correspondence relating to these matters.

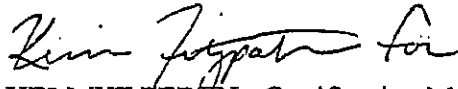
The City reserves the right to withdraw this certification if at any time it is determined certification was knowingly obtained by false, misleading or incorrect information. The City also reserves the right to request additional information and/or conduct on site visits at any time during the certification period to verify any documentation submitted with your application. By accepting certification, the firm of **Ninyo & Moore** hereby consents to the examination of its books, records and documents by the City.

000435

Ninyo & Moore  
April 3, 2008  
Page 2

Should you have any questions, please contact Kim Fitzpatrick at (213) 847-2644 or e-mail at [kim.fitzpatrick@lacity.org](mailto:kim.fitzpatrick@lacity.org).

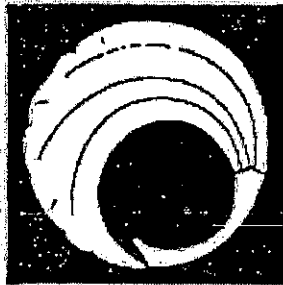
Sincerely,

A handwritten signature in cursive script, appearing to read "Kim Fitzpatrick".

HELMUT PEINDL, Certification Manager  
Office of Contract Compliance  
Bureau of Contract Administration

000436

Gary F. Hoyt



l a n d s c a p e  
a r c h i t e c t u r e , i n c .

Gary F. Hoyt, ASLA  
Principal

Landscape Architecture  
Land Planning

13625 Adrian Street  
Poway CA 92064

tel: 858.486.4931  
fax: 858.486.1457  
email: ghoyt@gary-f-hoyt.com

# MEMORANDUM

To: Ehab Gerges, Harris & Associates  
From: Gary Hoyt, ASLA  
Date: April 22, 2008  
Subject: 4141 Ruffin Road / Emergency Storm Drain Repair  
Letter of Commitment

---

This letter is to confirm that Gary F. Hoyt Landscape Architecture, Inc. will provide landscape architectural design, professional services, and assistance during construction for the referenced project.

000437

**D-MAX Engineering, Inc.**

Consultants in Water & Environmental Sciences



April 25, 2008

Mr. Mark Webb  
Harris and Associates  
750 B Street, Suite 1800  
San Diego, CA 92101

**Re: 60-Inch Diameter Storm Drain and Slope Repair  
4141 Ruffin Road  
San Diego, California**

Dear Mark,

D-MAX Engineering Inc. (D-MAX) is pleased to join Harris & Associates Team in submittal of qualifications for the subject project. Please accept this letter as written confirmation of our intent to sub-contract with Harris & Associates to prepare storm water services for the project.

Thank you for including us in your submittal team.

Sincerely  
D-MAX Engineering, Inc.

A handwritten signature in cursive script that reads "Arsalan Dadkhah".

Arsalan Dadkhah, Ph.D., P.E.  
Principal

SAMPLE



000439

EXHIBIT E

## CONSULTANT CERTIFICATION FOR A DRUG-FREE WORKPLACE

PROJECT TITLE: 4141 RUFFIN ROAD STORM  
EMERGENCY REPAIR

I hereby certify that I am familiar with the requirement of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the request for proposals, and that:

Hammis Assoc.  
Name under which business is conducted

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the Subcontractors agreement to abide by the provisions of Section 4.9.1 subdivisions A through C of the policy as outlined.

Signed JAMMM  
Printed Name JAMIE SMITH  
Title Regional Manager  
Date MAY - 6<sup>th</sup>, 2008

## DETERMINATION FORM

CONFLICT OF INTEREST CODE:  
DETERMINATION OF APPLICABILITY TO CONSULTANT

Name of Consultant & Company: [Name of individual(s) performing services, name of company and address]

Consultant Duties: [Insert contract number, description of type of work, duties and contract term]

Disclosure determination:

- ☒ Consultant will not be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B attached. No disclosure required.
- ☐ Consultant will be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B attached. Consultant is required to file a Statement of Economic Interests with the City Clerk of the City of San Diego in a timely manner as required by law.

☐ Disclosure required to the broadest level.

☐ Disclosure required to a limited extent:

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By:   
[City of S.D. Project Manager's Printed Name AND Signature]

May 6<sup>th</sup>, 2008  
[Date]

\*Forward a copy of this form to the Consultant to notify them of the determination.

\*Forward a copy of this form to the City Clerk's office to go on file for reporting purposes.

**DETERMINATION FORM****ATTACHMENT TO DETERMINATION FORM - DEFINITION OF "CONSULTANT"**

A "consultant" is an individual who, pursuant to a contract with a state or local government agency:

(A) Makes a governmental decision whether to:

1. Approve a rate, rule or regulation;
2. Adopt or enforce a law;
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
4. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract that requires City approval;
5. Grant City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
6. Grant City approval to a plan, design, report, study, or similar item;
7. Adopt, or grant City approval of, policies, standards, or guidelines for the City, or for any subdivision thereof; or

(B) Serves in a staff capacity with the City and in that capacity participates in making a governmental decision as defined in Regulation 18702.2 or performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.

An individual "serves in a staff capacity" if he or she performs substantially all the same tasks that normally would be performed by staff member of a governmental entity. In most cases, individuals who work on only one project or a limited range of projects for an agency are not considered to be working in a "staff capacity." The length of the individual's service to the agency is relevant. Also, the tasks over the relevant period of time must be substantially the same as a position that is or should be specified in the City's conflict of interest code.

An individual "participates in making a governmental decision" if he or she: (1) negotiates, without substantive review, with a governmental entity or private person regarding the decision; or (2) advises or makes recommendations to the decision-maker, by conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires the exercise of judgment on the part of the individual and the individual is attempting to influence the decision.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

SUBJECT: SUSTAINABLE BUILDING POLICY  
POLICY NO.: 900-14  
EFFECTIVE DATE: May 20, 2003

BACKGROUND:

Existing buildings and the building development industry consume nearly half of the total energy used in the United States. The City of San Diego's commitment to become increasingly efficient with resources, including energy, water, and materials associated with construction projects, is demonstrated in Council Policy 900-14 "Green Building Policy" adopted in 1997, Council Policy 900-16 "Community Energy Partnership," adopted in 2000, and the updated Council Policy 900-14 "Sustainable Buildings Expedite Program" adopted in 2001.

On April 16, 2002, the Mayor and City Council adopted CMR 02-060 which requires City projects to achieve the U.S. Green Building Council's LEED silver standard for all new buildings and major renovations over 5,000 square feet. This places San Diego among the most progressive cities in the nation in terms of sustainable building policies.

As a participant in the International Council for Local Environmental Initiatives (ICLEI) Cities for Climate Protection Program, as a Charter member in the California Climate Action Registry and as an active member of the U.S. Green Building Council, the City of San Diego is committed to reducing greenhouse gas emissions by implementing more sustainable practices, including green building technologies.

PURPOSE:

The purpose of this policy is to reassert the City's commitment to green building practices in City facilities, and to provide leadership and guidance in promoting, facilitating, and instituting such practices in the community.

POLICY:

The following principles will be required for all newly constructed facilities and major building renovation projects for City facilities:

LEED (Leadership in Energy and Environmental Design):

The LEED (Leadership in Energy and Environmental Design) Green Building Rating System is a voluntary, consensus-based national standard for developing high-performance, sustainable buildings. Members of the U.S. Green Building Council representing all segments of the building industry developed LEED and continue to contribute to its evolution.

The City of San Diego is committed to achieving LEED "Silver" Level Certification for all new City facilities and major building renovation projects over 5,000 square feet.

## SUSTAINABLE BUILDING MEASURES:

In addition to achieving LEED "Silver" Level Certification, Council Policy 900-14 encourages the following sustainable building measures for all newly constructed facilities and major renovation projects regardless of square footage:

1. Design and construct mechanical and electrical systems to achieve the maximum energy efficiency achievable with current technology. Consultants shall use computer modeling programs, (Energy Pro) to analyze the effects of various design options and select the set of options producing the most efficient integrated design. Energy efficiency measures shall be selected to achieve energy efficiencies at least 22.51% better than California's Title 24.2001 standards for both new construction and major renovation projects.
2. Incorporate self-generation using renewable technologies to reduce environmental impacts associated with fossil fuel energy use. Newly constructed City facilities shall generate a minimum of 10%, with a goal of 20% from renewable technologies (e.g., photovoltaic, wind and fuel cells).
3. Eliminate the use of CFC based refrigerants in newly constructed facilities and major building renovations and retrofits for all heating, ventilation, air conditioning and refrigerant-based building systems.
4. Incorporate additional commissioning and measurement and verification procedures as outlined by LEED 2.0 Rating System, Energy and Atmospheres, credit 3 and credit 5 for all projects over 20,000 sq. ft.
5. Reduce the quantity of indoor air contaminants that are odorous or potentially irritating to provide installer(s) and occupant(s) health and comfort. Low-emitting materials will include adhesives, paints, coatings carpet systems, composite wood and agri-fiber products.
6. In order to maximize energy efficiency measures within these requirements, projects will combine energy efficiency measures requiring longer payback periods, with measures requiring shorter payback periods to determine the overall project period.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

7. Comply with the storm water development requirements in the Storm Water Management and Discharge Control Ordinance (Municipal Code § 43.03), and the City's grading and drainage regulations and implementing documents (MC § 142.01 and 142.02, respectively).

In addition to achieving the minimum sustainable building measure this Council Policy encourages the following measures be incorporated into newly constructed facilities and major renovation projects whenever possible:

1. Use high efficiency irrigation technology, drought tolerant native plants and recycled site water to reduce potable water for irrigation by 50%. Additionally, building water consumption should be reduced by 30%.
2. Limit disruption of natural water flows and minimize storm water runoff by minimizing building footprints and other impervious areas, increasing on-site infiltration, preserving and/or restoring natural drainage systems, and reducing contaminants introduced into San Diego's bays, beaches and the ocean.
3. Facilitate the reduction of waste generated by building occupants that is hauled to and disposed of in landfills. Provide an easily accessible area that serves the entire building and is dedicated to the separation, collection and storage of materials for recycling. Recycling should include paper, glass, plastic and metals at a minimum.
4. Incorporate building products that have recycled content reducing the impacts resulting from the extraction of new materials. Newly constructed City facilities shall have a minimum of 25% of building materials that contain in aggregate, a minimum weighted average of 20% post consumer recycled content materials.
5. Reduce the use and depletion of finite raw and long-cycle renewable materials by replacing them with rapidly renewable materials. Newly constructed City facilities should consider incorporating rapidly renewable building materials for 5% of the total building materials.
6. Establish minimum indoor air quality (IAQ) performance to prevent the development of indoor air quality problems in buildings, maintaining the health and well being of the occupants. Newly constructed City facilities will comply with IAQ by conforming to ASHRAE 62-1999.
7. City buildings will be designed to take the maximum advantage of passive and natural sources of heat, cooling, ventilation and light.

The Environmental Services Department, Energy Conservation and Management Division has been designated by this Council Policy as the clearing authority for issues relating to energy for the City of San Diego. The Energy Conservation and Management Division will enter into a Memorandum of Understanding with those City Departments who design, renovate and build new city owned facilities to insure all new City facilities reflect the intent of Council Policy 900-14.

PRIVATE-SECTOR/INCENTIVES:

It shall be the policy of the City Council to expedite the ministerial process for projects which meet the following criteria:

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

1. Residential projects that provide 50% of their projected total energy use utilizing renewable energy resources, (e.g., photovoltaic, wind and fuel cells).
2. Commercial and industrial projects that provide 30% of their projected total energy use utilizing renewable energy resources, (e.g., photovoltaic, wind and fuel cells).
3. Residential and commercial and industrial projects that exceed the State of California Title 24 energy requirements by:
  - a. 15% better than California's Title 24.2001 for Residential Buildings.
  - b. 10% better than California's Title 24.2001 for Commercial and Industrial Buildings.

It shall be the policy of the City Council to expedite the discretionary process for projects which meet the following criteria:

1. Incorporate the U.S. Green Building Council, Leadership in Energy and Environmental Design (LEED) 2.0 Rating System "Silver" Level Certification for commercial development projects.
2. Incorporate self-generation through renewable technologies (e.g., photovoltaic, wind and fuel cells) to reduce environmental impacts associated with fossil fuel energy use for commercial and industrial projects generating a minimum of 30% or more of the designed energy consumption from renewable technologies such as photovoltaic, wind and fuel cells.
3. Residential discretionary projects of 4 units or more within urbanized communities as defined in the Progress Guide and General Plan that provide 50% of their projected total energy use utilizing renewable energy resources.

HEALTH AND RESOURCE CONSERVATION:

1. Projects will be designed to avoid inflicting permanent adverse impact on the natural state of the air, land and water, by using resources and methods that minimize pollution and waste, and do not cause permanent damage to the earth, including erosion.
2. Projects will include innovative strategies and technologies such as porous paving to conserve water, reduce effluent and run-off, thus recharging the water table.
3. When feasible, native plants will be used in landscaping to reduce pesticide, fertilizer, and water usage.
4. Buildings will be constructed and operated using materials, methods, mechanical and electrical systems that ensure a healthful indoor air quality, while avoiding contamination by carcinogens, volatile organic compounds, fungi, molds, bacteria, and other known toxins.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

5. Projects will be planned to minimize waste through the use of a variety of strategies such as: a) reuse of materials or the highest practical recycled content; b) raw materials derived from sustainable or renewable sources; c) materials and products ensuring long life/durability and recyclability; d) materials

requiring the minimum of energy and rare resources to produce and use; and e) materials requiring the least amount of energy to transport to the job site.

OUTREACH / EDUCATION:

1. An education and outreach effort will be implemented to make the community aware of the benefits of "Green Building" practices.
2. The City will sponsor a recognition program for innovative Green Building projects implemented in the public as well as private sector in an effort to encourage and recognize outstanding environmental protection and energy conservation projects.

IMPLEMENTATION:

The City will seek cooperation with other governmental agencies, public interest organizations, and the private sector to promote, facilitate, and implement Green Building and energy efficiency in the community.

LEGISLATION:

The City will support State and Federal legislation that promotes or allows sustainable development, conservation of natural resources, and energy efficiency technology.

REFERENCES:

Related existing Council Policies:

400-11, Water Conservation Techniques

400-12, Water Reclamation/Reuse

900-02, Energy Conservation and Management

900-06, Solid Waste Recycling

HISTORY:

Adopted by Resolution R-289457 11/18/1997

Amended by Resolution R-295074 06/19/2001

Amended by Resolution R-298000 05/20/2003



000447

**City of San Diego**  
**Consultant Performance Evaluation**

**EXHIBIT H**

The purpose of this form is to provide historical data to City staff when selecting consultants.

**Section I**

1. PROJECT DATA		2. CONSULTANT DATA	
1a. Project (title, location and CIP No.):		2a. Name and address of Consultant:	
1b. Brief Description:		2b. Consultant's Project Manager:	
1c. Budgeted Cost:		Phone (    ) _____	
3. CITY DEPARTMENT RESPONSIBLE			
3a. Department (include division):		3b. Project Manager (address & phone):	
4. CONTRACT DATA (DESIGN AND CONSTRUCTION)			
<b>4. Design</b>			
4a. Agreement Date: _____		Resolution #: _____ \$ _____	
4b. Amendments: \$ _____ / # _____ (City)		\$ _____ / # _____ (Consultant)	
4c. Total Agreement (4a. & 4b.): \$ _____			
4d. Type of Work (design, study, etc.):		4e. Key Contract Completion Dates:	
		<div style="display: flex; justify-content: space-between;"> <span>_____ %</span> <span>_____ %</span> <span>_____ %</span> <span>_____ %</span> <span>_____ %</span> <span>100 %</span> </div> <div style="display: flex; justify-content: space-between;"> <span>Agreement</span> <span>_____</span> <span>_____</span> <span>_____</span> <span>_____</span> <span>_____</span> </div> <div style="display: flex; justify-content: space-between;"> <span>Delivery</span> <span>_____</span> <span>_____</span> <span>_____</span> <span>_____</span> <span>_____</span> </div> <div style="display: flex; justify-content: space-between;"> <span>Acceptance</span> <span>_____</span> <span>_____</span> <span>_____</span> <span>_____</span> <span>_____</span> </div>	
<b>5. Construction</b>			
5a. Contractor _____		Phone (    ) _____	
(name and address)			
5b. Superintendent _____			
5c. Notice to Proceed _____ (date)		5f. Change Orders:	
5d. Working days _____ (number)		Errors/Omissions _____ % of const. cost \$ _____	
5e. Actual Working days _____ (number)		Unforeseen Conditions _____ % of const. cost \$ _____	
		Changed Scope _____ % of const. cost \$ _____	
		Changes Quantities _____ % of const. cost \$ _____	
		Total Construction Cost \$ _____	
6. OVERALL RATING (Please ensure Section II is completed)			
		Excellent	Satisfactory
6a. Plans/specification accuracy.....		_____	_____
Consistency with budget.....		_____	_____
Responsiveness to City Staff.....		_____	_____
6b. Overall Rating _____			Poor
7. AUTHORIZING SIGNATURES			
7a. Project Manager _____		Date _____	
7b. Deputy Director _____		Date _____	

## Section II

## SPECIFIC RATINGS

PLANS / SPECIFICATION ACCURACY	EXCELLENT	SATISFACTORY	POOR	N/A	RESPONSIVENESS TO STAFF	EXCELLENT	SATISFACTORY	POOR	N/A
Plan/Specification clear and precise 000448					Timely Responses				
Plans/Specs Coordination					Attitude toward Client and review bodies				
Plans/Specs properly formatted					Follows direction and chain of responsibility				
Code Requirements covered					Work product delivered on time				
Adhered to City Standard Drawings/Specs					Timeliness in notifying City of major problems				
Drawings reflect existing conditions					Resolution of Field problems				
As-Built Drawings					CONSISTENCY WITH BUDGET	EXCELLENT	SATISFACTORY	POOR	N/A
Quality Design					Reasonable Agreement negotiation				
Change Orders due to design deficiencies are minimized					Adherence to fee schedule				
					Adherence to project budget				
					Value Engineering Analysis				

## Section III

## SUPPLEMENTAL INFORMATION

Please ensure to attach additional documentation as needed.

Item \_\_\_\_\_ :

Item \_\_\_\_\_ :

Item \_\_\_\_\_ :

Item \_\_\_\_\_ :

Item \_\_\_\_\_ :

Item \_\_\_\_\_ :

(\*Supporting documentation attached yes \_\_\_\_\_ no \_\_\_\_\_)



**The City of San Diego**  
**Purchasing and Contracting Department**  
**Contractor / Vendor Registration**

000449

Vendor ID:

(To be provided by City)

**Firm Information**

Firm Name:

Harris & Associates

Firm Address:

750 B Street, Suite 1800

City:

San Diego

State:

CA

Zip:

92101

Phone:

619-236-1778

Fax:

619-236-1179

Taxpayer ID:

# 94-2385238

Business License:

#B1999005573

Website:

www.harris-assoc.com

**Contact Information**

Name:

Ehab S. Gerges

Title:

Design & Development Services Manager/Associates

Email:

egerges@harris-assoc.com

Phone:

619-236-1778

Cell:

949-683-2011

**Address to Which Bids or Contracting Opportunities Should Be Sent**  
**(If different from above)**

Check here if same from above

☒

Mailing Address:

City:

State:

Zip:

**Construction Licenses (If applicable)**

License Number:

License Type:

License Number:

License Type:

License Number:

License Type:

License Number:

License Type:

Form continues on reverse side

**Product/Services Description:**

000450

Professional Engineering Services

**Product/Services Information:**

NAICS Codes:

\*

\*select from a list of available NAICS Codes either from the website  
<http://www.census.gov/epcd/www/naics.html> and select 2007 NAICS codes 6 digit only or  
from a hard copy available at Purchasing and Contracting

**Ownership Classification**

Classification:

\*

(\* select from the list of Ownership Classification Codes provided below)

Check here if Certified by Agency: ☐

Certification #:

Agency:

Certification #:

Agency:

**Ownership Classification Codes:**

MBE/African American	(Minority Business Enterprise/African American)
MBE/Hispanic	(Minority Business Enterprise/Hispanic)
MBE/Asian	(Minority Business Enterprise/Asian)
MBE/Pacific Islander	(Minority Business Enterprise/Pacific Islander)
MBE/Native American	(Minority Business Enterprise/Native American)
WBE	(Women Business Enterprise)
DBE	(Disadvantaged Business Enterprise)
DVBE	(Disabled Veteran Business Enterprise)
OBE	(Other Business Enterprise)

Information regarding a vendor's racial or gender ownership status will not be used  
as a factor in the City's selection process for any contract.



POLICY # 57UENUL6878  
**000452**

COMMERCIAL AUTO  
CA 20 48 02 99

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED INSURED**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective:	<b>8/1/2007</b>
Named Insured:	<b>Harris &amp; Associates Inc.</b>

### **SCHEDULE**

<b>Name of Person(s) or Organization(s):</b>  <b>Any person or organization with whom you agreed, pursuant to a written contract or written agreement to provide insurance such as is afforded under this policy.</b>
---

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.

Subject to all other terms and provisions of the policy, such insurance as provided by this endorsement shall be deemed primary, but only with respect to work performed by or for the named insured in connection with the above described contract. Any other insurance maintained by the Additional Insured(s) shall be excess and non-contributory.

000453

Excerpts from: Hartford form HA 99 16 03 02

## COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

### BUSINESS AUTO COVERAGE FORM

Policy Number: 57UENUL6878  
Insurer: Hartford Fire Insurance Co.  
Policy Period: August 1, 2007 to August 1, 2008  
Named Insured: Harris & Associates Inc.

#### 15. WAIVER OF SUBROGATION

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

000454

POLICY #: 7180096900001  
INSURED: Harris & Associates Inc.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY**

## **ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART and GL CONTRACTORS  
EXTENDER FORM VCG 206 02 05**

- a. COMMERCIAL GENERAL LIABILITY COVERAGE FROM CG 00 01 12 04 is amended by the following wording.
- b. GL CONTRACTORS EXTENDER paragraph 1. ADDITIONAL INSURED – REQUIRED IN CONTRACT, AGREEMENT OR PERMIT is deleted and replaced by the following wording.

1. WHO IS AN INSURED – (Section II) is amended to include as an additional insured any person or organization you are required to add as an additional insured under this policy in a written contract or written agreement in effect during this policy period and signed and executed by you prior to the loss for which coverage is sought. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization. The person or organization is only an additional insured with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused by “your work” performed under the written contract or written agreement.
2. The insurance provided to the additional insured is limited as follows:
  - a) This endorsement shall not increase the limits stated in Section III – LIMITS OF INSURANCE.
  - b) The insurance provided to the additional insured does not apply to “bodily injury”, “property damage”, or “personal and advertising injury” arising out of an architect’s, engineer’s or surveyor’s rendering of or failure to render any professional services including:
    - I. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and
    - II. Supervisory or inspection activities performed as part of any related architectural or engineering activities.
- c) This insurance does not apply to “bodily injury” or “property damage” caused by “your work” included in the “products-completed operations hazard” unless you are required to provide such coverage for the additional insured by a written contract or written agreement in effect during this policy period and signed and executed by you prior to the loss for which coverage is sought.
3. Subpart (1)(a) of the Pollution exclusion (Section I – Coverages, part 2. f. of the Commercial General Liability Coverage form) does not apply to you if the “bodily injury” or “property damage” arises out of “your work” performed on premises which are owned or rented by the additional insured at the time “your work” is performed.
4. Any coverage provided by this endorsement to an additional insured shall be excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement in effect during this policy period and signed and executed by you prior to the loss for which coverage is sought specifically requires that this insurance apply on a primary or non-contributory basis.
5. As a condition of coverage, each additional insured must:
  - a) Give us prompt written notice of any “occurrence” or offense which may result in a claim and prompt written notice of “suit”.
  - b) Immediately forward all legal papers to us, cooperate in the defense of any actions, and otherwise comply with policy conditions.



000455

Excerpts from: OneBeacon Form VCG 206 02 05

## **@VANTAGE FOR GENERAL LIABILITY – CONTRACTORS**

### **COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

Policy Number: 7180096900001  
Insurer: OneBeacon America Insurance Co.  
Policy Period: 8/1/2007 – 8/1/2008  
Named Insured: Harris & Associates Inc.

#### **5. BLANKET WAIVER OF SUBROGATION**

Section IV - Transfer of Rights of Recovery Against Others to Us Condition is amended to add the following:

We will waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations done under a written contract or agreement with that person or organization and included in "your work" or the "products-completed operations hazard". This waiver applies only to persons or organizations with whom you have a written contract, executed prior to the "bodily injury" or "property damage", that requires you to waive your rights of recovery.

000456



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**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT -- CALIFORNIA**

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We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2% of the California workers' compensation premium otherwise due on such remuneration.

**Schedule**

**Person or Organization**

**Job Description**

ALL PERSONS OR ORGANIZATIONS THAT ARE PARTIES TO A CONTRACT THAT REQUIRES YOU TO OBTAIN THIS AGREEMENT, PROVIDED YOU EXECUTED THE CONTRACT BEFORE THE LOSS.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated. The information below is required only when this endorsement is issued subsequent to preparation of the policy.

Endorsement Effective **8/1/2007**

Policy No. **07HWD40007**

Insured **Harris & Associates, Inc.**

Endorsement No.